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THE
CENTRAL PROVINCES
REVENUE MANUAL

CONTAINING

REVENUE ACTS AND RULES THEREUNDER
HAVING THE FORCE OF LAW

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THE CENTRAL PROVINCES LAND
REVENUE ACT, XVIII OF 1881.

THE CENTRAL PROVINCES LAND REVENUE ACT, 1881.

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SCHEDULE.—[*Repealed.*]

ACT NO. XVIII OF 1881.¹

[8th June 1881.]

An Act to consolidate and amend the law relating to Land-revenue and the powers of Revenue Officers in the Central Provinces.

(As modified up to the 30th October 1908.)

WHEREAS it is expedient to consolidate and ^{Preamble.} amend the law relating to Land-revenue and to the powers of Revenue Officers in the Central Provinces; it is hereby enacted as follows:

PART I.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Central Pro- ^{Short title.} vinces Land-revenue Act, 1881.

It extends to all the territories for the time ^{Local extent.} being under the administration of the Chief Commissioner of the Central Provinces***; and

it shall come into force on such day² as the ^{Commence-} Chief Commissioner, with the previous sanction of ^{ment.} the Governor-General in Council, may direct by notification in the local official Gazette.

NOTE.—The Act came into force on the 4th November 1881 by Notification No. 4055 of that date.

¹ For Statement of Objects and Reasons, see *Gazette of India*, 1880, Part V, page 263; for Proceedings in Council see *ibid*, Supplement, pages 1148 and 1302, and *ibid*, 1881, Supplement, pages 647 and 669.

² The words and figures "except those specified in Part VI of the first schedule of the Scheduled Districts Act 1874," were repealed by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 3. printed, Central Provinces Code, Edition 1891, page 277.

³ The 4th November 1881, see *Central Provinces Gazette*, 1881, Part II, page 176.

2 *Central Provinces Land-revenue.* [ACT XVIII.]

(Part I—Chapter I—Preliminary—Sections 2—4.)

2. [Enactments repealed.] Repealed by Act XII of 1891.¹

3. [Pending proceedings.] Repealed by Act XII of 1891.²

Interpreta-
tion-clause.

4. In this Act, unless there is something repugnant in the subject or context,—

(1) "Assistant Commissioner" includes also "Extra-Assistant Commissioner" :

(2) "legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue agent :

(3) "village-cess" means any cess which a person resident or holding lands in a village pays, or renders to the proprietors as such of the village,² [or to their transferees or assignees as such or to the patel], and includes service rendered or things furnished as well as money paid :

(4) "recognized agent" means a person authorised in writing by any party to a proceeding under this Act to make appearances and applications and to do other acts on his behalf in such proceeding, and also belonging to any class which the Chief Commissioner may, from time to time, by notification in the official Gazette, declare in this behalf :

Notification
No. 1316,
dated the 20th
June 1907.

Under Section 4, Sub-section 4, of the Central Provinces Land Revenue Act, 1881, the Chief Commissioner is pleased to declare that the recognized agents of parties by whom the appearances, applications and acts, referred to in Section 20, may be made and done in the Revenue Courts of the Central Provinces shall be as follows :—

I. For parties residing within the local limits of the jurisdiction of the Court :

Persons who hold special powers-of-attorney, and whom the Court may admit as fit persons to make or do such appearances, applications or acts :

II. For parties residing beyond the local limits of the jurisdiction of the Court :

¹ Printed, General Acts, Volume VI.

² These words were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 4, printed, Central Provinces Code, Edition 1891, page 278.

(Part I—Chapter I—Preliminary—Section 4.)

- (a) Persons of class I above :
- (b) Persons holding general powers-of-attorney carrying authority to make and do such appearances, applications and acts :

(5) "agricultural year" means the year commencing on the first day of June, or on such other date as the Chief Commissioner may, in the case of any specified district or districts, from time to time appoint :

NOTE.—In Raipur and Bilaspur the agricultural year commences on 1st April—Notification No. 2515, dated the 8th June 1886. In the districts of the Nagpur Division the agricultural year commences on 1st May—Notification No. 79, dated the 19th January 1911:

¹ (6) * * * * *

² (6-a) "survey number" means a local area held by, or intended to be settled with, a ryot under a separate assessment of land-revenue in a village or estate which is the property of the Government :

(7) "mahal" means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared, under the provisions of this Act, to be a mahal, ³[but does not include a survey number] :

(8) "village" includes any tract of land which at the last settlement of such land has been recognized as a village, or which the Chief Commissioner may, from time to time, declare to be a village for the purposes of this Act :

¹ Clause (6) which was substituted for the original clause by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 5, printed, Central Provinces Code, Edition 1891, page 278, was repealed by the Central Provinces Land-revenue Act, 1898 (XII of 1898).

² Clause (6-a) was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 6, printed, Central Provinces Code, Edition 1891, page 278.

³ These words were added by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 7, printed, Central Provinces Code, Edition 1891, page 278.

(*Part I—Chapter I—Preliminary—Section 4*)

¹(8-a) “proprietor” except in section 4, clause (6), and in sections 61, 62, 63 and 69, includes gaontia of a Government village in the Sambalpur District :

(9) “malguzar” means a person who, under the provisions of this Act, has accepted, or is to be deemed to have accepted, the assessment of a mahal, and includes his representatives and assigns, and also any person with whom a settlement has been made before this Act comes into force, and his representatives and assigns :

²(10) “malik-makbuza” means any person owning one or more plots of lands separately assessed with revenue in a mahal, and who is not a malguzar, inferior proprietor or member of the proprietary body of the mahal :

NOTE.—See ruling of the Judicial Commissioner in *Jairam and Gopi Ram versus Balaji, Mansaram and Jairam*, page 9, Volume XIV of the Central Provinces Law Reports, 1901.

(11) “lambardar” means a person appointed in manner prescribed by this Act to represent the proprietary body of a mahal in its relations with the Government :

(12) “Sub-lambardar” means a person so appointed to represent the inferior proprietary body of a mahal in its relations with the superior proprietors :

(13) “mukaddam” means the executive headman of a village, appointed in manner prescribed by this Act :

³(13-a) “patel” means a person appointed in manner prescribed under this Act to represent a body of Government ryots in their dealings with the Government :

¹ Clause (8-a) was inserted by the Central Provinces Land-revenue Act 1889 (XVI of 1889), section 8.

² This clause was substituted for the original clause (10) by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 9.

³ Clauses (13-a) and (13-b) were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 10, printed, Central Provinces Code, Edition 1891, page 278.

(Part I—Chapter I—Preliminary—Section 4.)

¹ (13-b) "patt" means the lands allotted to any sharer or body of co-sharers in a mahal by an imperfect partition under this Act :

(14) "tenant" means a person who holds land of another person and is or but for a special contract would be liable to pay a rent for such land to such other person ; but it does not include a farmer, mortgagee or thekadar of proprietary rights :

¹ *Explanation I.*—An inferior proprietor is not, as such, a tenant ;

¹ *Explanation II.*—The holder of a survey number in a village let in farm by the Government, or held by a gaontia in the Sambalpur District, is a tenant of the farmer or gaontia for the time being ;

¹ *Explanation III.*—A person who is not an absolute-occupancy tenant or an occupancy tenant and who holds land from a malik-makbuza or from the holder of a survey number is a sub-tenant of that land ;

(15) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him :

(16) "absolute-occupancy tenant" means, in reference to any land, a tenant who, at a settlement of such land made before this Act comes into force, or after such a settlement but before this Act comes into force,² was recorded, by order of a Revenue or Settlement Officer, in respect of such land, as an "absolute-occupancy ryot," or in terms equivalent thereto :

(17) "record-of-rights" includes the supplementary administration-paper prepared at or after the time of making a settlement before this Act comes into force.²

¹ These Explanations were substituted for the original explanation by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 11.

² The 4th November 1881, see *Central Provinces Gazette*, 1881, Part II, page 176.

6 *Central Provinces Land-revenue.* [ACT VXIII.

(*Part I—Chapter I—Preliminary—Section 4-A.*)

¹4-A. (1) Subject to the provisions of sub-section 2, "sir-land" (that is to say, the demesne or permanent home-farm land of a proprietor) includes the following, and no other, land, namely:—

Meaning of "sir-land."

- (a) land finally recorded under section 69 as "sir-land" in the papers of the current settlement;
- (b) land declared, under section 132, clause (j), to be "sir-land"; and
- (c) land in the Sambalpur District recorded as "bhogra" in the papers of the current settlement.

NOTE 1.—When proprietary rights were conferred on malguzars in the Central Provinces at the time of the thirty years' settlement, all land which was in the cultivation of the newly-created proprietors, or which was recognized as appertaining to their home-farm, variously designated *sir* in the Hind districts, *malik wahit* or *mukaddam wahit* in the Marathi districts, and *bhogra* in Sambalpur, was recorded as *sir-land* in the record-of-rights. Over this land the proprietors had absolute control, no tenant could acquire rights in it, or could murmur if ejected by the proprietor.

2. The extent and proportion of the sir-lands, or proprietary home-farm, as determined at the thirty years' settlement, naturally differed very much from village to village, according to the length of tenure of the proprietor, his residence or non-residence in the village, his desire or disinclination to cultivate land himself; and the changes and chances in the *personel* and means of the proprietary body, in the value of land, and in the relations of landlord and tenant, which the succeeding years brought about, soon disclosed the necessity for legislation.

3. Some proprietors were found to have habitually leased out extensive areas of sir-land at rack-rents to tenants-at-will. Others again were complaining that the sir-land was inadequate to their growing necessities, and had extended their cultivation over lands formerly held by tenants or broken up from waste. Accordingly, the Land-revenue Act of 1881 and the Tenancy Act of 1883 conjointly provided for extinction of sir rights in land when the proprietors had shown that they did not want to cultivate.

¹ Section 4-A was inserted by section 2 of the Central Provinces Land revenue Act, 1898 (XII of 1898).

(Part I—Chapter I—Preliminary—Section 4-A.)

it themselves, and for the creation of these rights in favour of those proprietors who found it necessary to extend their home-farm areas. To secure these objects it was enacted that sir rights in land would be extinguished if the land was leased out for six or more consecutive years *without express reservation* of the sir right, and could be acquired by continuous cultivation by the proprietor for a term fixed at twelve years, when the land had been relinquished by a tenant, and six years when the proprietor had himself broken it up from waste. The new law was not a success. Many proprietors who had let out the sir-land without reservation (as was mostly the case with, and let out before reservation was required by law), or who were ignorant of the new law requiring reservation, found themselves deprived altogether of proprietary home-farms of which they desired to resume cultivation. On the other hand, others were clever enough to perceive that by the expenditure of money in extended cultivation of land, they could in a few years' time acquire sir rights over large areas, thereby barring for all time the protection which the law otherwise conferred upon the ordinary tenants to whom the surplus sir area would afterwards be let. Ejectment of tenants was encouraged; the Civil Courts were constantly involved in deciding disputes as to whether sir rights had accrued or been extinguished at a time when village records were as yet of little value in checking the conflicting oral testimony produced; and landlords who desired to resist the claims of dispossessed tenants were furnished with a ready plea, the falsity of which the tenants were often too poor or too ignorant to successfully establish.

4. So apparent did these evils become that within six years after the passing of the Tenancy Act of 1883, the law was again altered by the amending Acts of 1889. Under this legislation sir rights existing at the passing of the Act could no longer be extinguished, and new sir rights could only be acquired automatically by cultivation for six years of waste-land, or by the declaration of a Settlement Officer made at a settlement that land formerly held by a ryot had been continuously cultivated by a proprietor for upwards of twelve years. Only so much of the land falling under the last category would be declared sir, the inclusion of which did not make total sir-land in a mahal exceed 25 per cent of the total cultivated area of the mahal.

5. So far as the future effect of this new provision went, the amended law was simple enough; but the definition of sir-land embodied in the Act so was seriously complicated by the necessity for saving and defining rights which

(Part I—Chapter I—Preliminary—Section 4-A.)

had grown up in the interval between the original Acts and their amendment, that it has never been fully understood by the people, or even by many of the officers who have presided over the Revenue and Civil Courts of the Province. In order to mitigate the effect of the previous law extinguishing sir, it was provided that if land had lost its sir character by six years' non-occupation without reservation of sir rights, but at the date of the passing of the Act had come back again by lawful means into occupation of the proprietor, the sir rights were revived. Similarly, as regards ryoti land over which by the twelve years' occupation sir rights had accrued, these rights were again forfeited if the land was not in the occupation of the proprietor when the amending Act came into force. In other words, while the provisions regarding the extinction of old, and the acquisition without limit of new, rights in land as they stood under the law of 1881—83 were allowed to hold good up to the date of the passing of the Acts of 1889, their operation in both cases was made conditional on the actual occupation of the land by the proprietor at the time that the amending Acts came into force, *i. e.*, the 29th October 1889. Only in respect of land broken up from waste was no change made in the law. These provisions were not definitely enunciated, but were to be inferred from the cumbrous definitions in which they were wrapped up. The result was that the simplicity of the new law regarding sir was completely nullified by the saving clauses of the definition. It was still always possible for a landlord to raise the plea regarding any land in dispute, that it had become sir prior to 1889 under the saving clauses of the amending Act, and this although the Settlement Officer had carefully enquired into and rejected the plea. As years passed, and the difficulty of ascertaining the facts as they existed prior to 1889 increased, the disadvantage of this definition became more and more marked, and the opportunity afforded by the enactment of a new Tenancy Act has been taken advantage of to again revise the law regarding sir.

6. Under the Act of 1898, sir-land as defined in section 4-A (excluding the *bhogra* of Sambalpur to which reference will presently be made, and subject to the exception noted in the following paragraph) consists of only two kinds:—

- (i) land finally recorded as sir at settlement;
- (ii) land declared sir by the Deputy Commissioner [section 132 (j)] during the currency of a settlement.

Under section 69 (i) of the Act, land which has been declared to be sir under either of the above provisions

(Part I—Chapter I—Preliminary—Section 4-A.)

"loses its character as sir-land" when the proprietary right is parted with without the sanction provided for by section 45 (2) of the Tenancy Act of 1898; and if it is cultivated by the new proprietor, will be recorded, not as sir, but as *khudkasht*. This is apparently the only case in which such land finally and conclusively ceases to be sir. But there are two other cases in which the sir rights may remain, so far as their enjoyment goes, almost indefinitely in abeyance. The first is when a tenant whose holding includes sir-land purchases a right of occupancy under section 73 of the Tenancy Act of 1898. The second is when a thekadar is made an occupancy tenant of sir-land included in his lease by the Settlement Officer under the second proviso to section 65-A (1) of the Land-revenue Act. In both these cases, if at any time the occupancy right, lapsed from failure of heirs or owing to the lawful ejectment of the tenant, the sir rights would apparently revive. The loss of the sir right, whether permanent or temporary, in all three cases, it will be observed, is due not to the use made of the land, but to a change in the legal status of the owner, tenant, or farmer.

7. As regards right gained under the law as it stood in the interval between the Acts of 1883 and 1889, the Act of 1898 refers to them only in respect of districts where there has been no settlement made since the passing of the amending Act of 1889. In districts re-settled since 1889 all claims to sir-land brought under this intermediate legislation have already been passed in review in the course of the settlement proceedings. When the claim could be substantiated the land was declared sir, and thus falls under the definition of section 4-A, sub-section (1); when the claim failed, the question is now finally closed. In districts not re-settled since 1899, the alternative definition contained in sub-section (2) is still in force; but as each of these districts is in due course re-settled, and the claims brought under it disposed of, that sub-section will cease to apply to it, until, in a few years time, the sub-section will become obsolete, and the simple definition contained in sub-section (1) will stand alone. The only districts in which sub-section (2) of section 4-A is still in force are Chanda, Raipur, Bilaspur, Sambalpur and Mandla. In the three former re-settlement operations are now in progress, and in Sambalpur the sub-section in any case is only applicable to proprietary villages. This temporary definition is therefore even now of very limited application.

8. The remaining kind of sir to be considered is the *bhogra* land of Sambalpur. With the exception of the **zamindars** and a few **revenue-free grantees** who have been

(Part I—Chapter I—Preliminary—Section 4-A.)

declared proprietors of their estates, the malguzars, or gaontias (as they are locally termed) of the Sambalpur District are not proprietors of their villages, but only of their bhogra lands. The bhogra in Sambalpur, which is declared to be sir in clause (c) of sub-section (1), section 4-A, is therefore synonymous with proprietary land in the gaontiahi villages of that district. It cannot be increased or diminished. If the gaontia cultivates any waste-land or land surrendered by a tenant, he takes it simply as a ryot, and becomes in respect of it a tenant, nominally of himself, but in reality (as is the case with all tenants in the gaontiahi villages) of Government. The bhogra of Sambalpur is the only kind of sir to which section 45 of the Tenancy Act does not apply [sub-section (8) of that section].

9. So much for the definition of sir-land. The mode of determining it is described in section 69. The Settlement Officer first ascertains and records as sir [sub-section (1)] the sir-land of the previous settlement, and any additional land declared sir by the Deputy Commissioner during the currency of the settlement, less any land which has lost its sir character under section 45 of the Tenancy Act. So far he is merely ascertaining what land is already sir under the terms of the definition. He has next to consider under sub-section (2) what further lands are entitled to be declared and recorded as sir in the new settlement. Twelve years' continuous cultivation by a proprietor, extending up to the time of the inquiry, will qualify any land for record as sir [clause (a)], and six years will suffice if the land was broken up from waste by the proprietor [clause (b)]. Up to this point there has been no change in the law of 1889.

10. But whereas the Act of 1889 proceeded to apply a limit (25 per cent of the cultivated area) to the acquisition of sir rights in the case of land falling under clause (a), the Act of 1898 extends that limit to land falling under clause (b) also. At the same time, the test is altered; the decision will depend on the proportion borne by the *sir*-land to the *occupied*, not to the *cultivated*, area of the mahal, as the former Act provided.

11. While, however, extending this limitation to the acquisition of sir rights in waste, as described in clause (b), the Act contemplates cases in which particular mahals or parts of mahals may be exempted from the limitation in respect of this class of land. The Settlement Officer, and of course the Deputy Commissioner [who has, under section 132 (j), the power in respect of clause (b) land during the currency of a settlement] may suspend the limit with the sanction of the Commissioner. The Act is silent regarding the cases in which this exemption may be allowed, leaving this to the discretion of the officers mentioned; but the object

of the provision is to allow for the expansion of the privileged home-farm in the case of villages owned by large number of co-sharers who are themselves cultivators, and whose well-being and security in their tenure requires the attention of Government as much as that of the ordinary ryots, and this is the only case to which it should be applied. The Deputy Commissioner who exercises this function [section 132 (f)] may declare land to be sir either on his own motion or on a reference by a Revenue Officer or Court; but, however, the case may come to his notice, it will be his duty to satisfy himself, by independent inquiry if necessary, as to the facts of the case, and not to accept without careful scrutiny the statement that the land can properly be declared sir.

12. The new section 69 introduced by the amending Act has also brought about a change in jurisdiction. Hitherto, although some finality attached to the Settlement Officer's record of sir-land, no finality at all attached to his decision that certain land was not sir. A claim thus rejected by him after careful local inquiry could be revived at any time in any suit before a Civil Court, after the evidence on which the Settlement Officer had acted was no longer available.

13. For the future, under the provisions of sub-section (4) to section 69, the decision of the Settlement Officer recording or omitting or refusing to record as sir any land which has previously been recorded as or declared to be such, will be final unless it is set aside by a Civil Court in a special suit brought under section 83 within one year of the settlement coming into force. This enables any error or omission on the part of the Settlement Officer to be put right by the Civil Court when the facts are recent. But the jurisdiction of the Civil Court under this section is limited to cases of sir-land under sub-section (1), that is to say, to cases in which the Settlement Officer was dealing with land already declared by competent authority to be sir within the meaning of the definition in section 4-A.

14. With cases in which the Settlement Officer declares sir rights for the first time, the Civil Court will have nothing to do, and the appeal from the Settlement Officer's order will lie only to the Revenue Courts. In the future, therefore, the function of the Civil Courts will be confined to deciding whether sir-land as declared by competent authority has been included in the Settlement record, or has been rightly excluded as having lost its character as sir-land, and whether any land not so declared has been included by error in that record on the ground that it has been so declared; and (subject to the temporary exception in districts not re-settled since 1889 of cases arising under the law as it stood prior to 1889) the Civil Courts will never be called upon to decide whether any given land

(Part I—Chapter I—Preliminary—Section 4-A.)

fulfils the conditions necessary for a first declaration that it is sir. That duty is reserved to Revenue Officers.

15. The finality of the sir record makes it the more necessary that Revenue Officers declaring or refusing to declare land to be sir should not act hastily or without careful inquiry. If this is always done, the change in jurisdiction which the new section entails will save much costly litigation between landlord and tenant without risk of injustice to either party. The distinction between the two cases noticed in the preceding paragraph also renders it essential that the Settlement Officer should record in each case the ground upon which land is recorded as sir.

(2) In any local area of which no settlement

Temporary provisions for dis- has been made since the
tricts not settled since 1889. commencement of the

XVI of 1889. Central Provinces Land Revenue Act, 1889,¹ and
until the settlement of such local area next follow-
ing the commencement of the Central Provinces
Land-revenue Act, 1889, "sir-land" includes—

(a) land defined as sir-land in the foregoing
sub-section :

Provided that any such land (other than bhogra) which at the commence-
ment of the Central Provinces Land-
revenue Act, 1889, was unoccupied
by such proprietor, and which had,
after the date of the settlement last
preceding the commencement of the
said Act, been so unoccupied for a
period of six consecutive years, shall
not be deemed to be "sir-land" ;

(b) land which at the commencement of
the Central Provinces Land-revenue
Act, 1889, was occupied by and had
been cultivated by the proprietors or
one of the proprietors thereof for a
period of not less than twelve consecu-
tive years ;

(c) land which had at the commencement
of the Central Provinces Land-revenue
Act, 1889, been broken up from waste
by the proprietor or one of the proprie-
tors thereof, and cultivated by him for
a period of not less than six consecu-
tive years :

¹ Printed, Central Provinces Code, Edition 1889, page 277.

(Part I—Chapter I—Preliminary—Section 4-A.)

Provided that any such land which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by the proprietor and had been so unoccupied by him for six consecutive years, shall not be deemed to be sir-land.

Explanation I.—For the purpose of sub-section (2), land shall be deemed to be occupied by the proprietor when it is leased out by him with an express reservation of his *sir* rights, and land shall be deemed to be cultivated when it is allowed to lie fallow in accordance with the usual practice of cultivation.

Explanation II.—For the purposes of this section—

- (a) the word "proprietor" shall be deemed to include an assignee of proprietary rights, but not a malik-makbuza:
- (b) when by any local custom land is liable to exchange or re-distribution among the cultivators thereof, land which is not "sir-land," and which is taken in exchange for "sir-land," becomes "sir-land" and the "sir-land" given in exchange for that land ceases to be "sir-land:"
- (c) subject to the proviso to sub-section 2, clause (a), land which has been recorded as "sir-land" in the papers of any settlement made before the commencement of this Act shall be deemed to have been finally recorded as "sir-land" under section 69.

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(*Part II—Chapter II—Of Revenue Officers :
their powers and Procedure—Sections 5—8.*)

PART II.

CHAPTER II.¹

OF REVENUE OFFICERS : THEIR POWERS AND
PROCEDURE.

²5. There shall be the following classes of
Revenue Officers, namely :—

The Chief Commissioner.
The Financial Commissioner.
Commissioners.
Deputy Commissioners.
Assistant Commissioners.
Tahsildars.
Naib-Tahsildars.

²6. (1) The Chief Commissioner shall, in all
Revenue matters, be subject to the control of the
Governor-General in Council.

(2) The Financial Commissioner shall be sub-
ject to the control of the Chief Commissioner.

(3) All other Revenue Officers shall be subor-
dinate to the Chief Commissioner and the Financial
Commissioner; all Revenue Officers in a Division
shall be subordinate to the Commissioner of the
Division; and all Revenue Officers in a district shall
be subordinate to the Deputy Commissioner of the
District.

(4) An officer in charge of a village-survey in a
district which is not under Settlement may be invest-
ed by the Chief Commissioner with the powers of a
Revenue Officer of any class, and, when so invested,
shall be subordinate to such officer or officers as
the Chief Commissioner may direct.

Appointment,
suspension,
and removal
of Commis-
sioners, De-
puty and
Assistant
Commis-
sioners.

7. Subject to the control of the Governor-
General in Council the Chief Commissioner shall
appoint, and may suspend or remove, Commissioners,
Deputy Commissioners and Assistant Commis-
sioners.

Appointment,
suspension,
and removal
of Tahsildars
and Naib-
Tahsildars.

8. The Chief Commissioner shall appoint, and
may suspend or remove, Tahsildars; and may also
make rules for regulating the appointment, duties,
suspension and removal of Naib-Tahsildars.

¹ As to the application of sections 11 and 15—26 to Settlement Officers
and proceedings before them, see section 31, *infra*, page 26.

² This section was substituted for the original section 6 by the Central
Provinces Financial Commissioner's Act, 1908 (XIII of 1908).

*(Part II—Chapter II—Of Revenue Officers :
their Powers and Procedure—Sections 9—13.)*

9. All Commissioners, Deputy Commissioners, Assistant Commissioners, Tahsildars and Naib-Tahsildars holding office as such in the territories to which this Act extends when this Act comes into force shall be deemed to have been appointed hereunder.

Persons holding office when Act comes into force.

10. The Chief Commissioner may appoint any person to be an additional Tahsildar in any tahsil, or, with the sanction of the Governor-General in Council, to be an additional Commissioner or additional Deputy Commissioner in any Division or District, and may suspend or remove any person so appointed, but subject, in the case of an additional Commissioner or additional Deputy Commissioner, to the like sanction.

Power to appoint additional Commissioners, Deputy Commissioners and Tahsildars.

The Chief Commissioner may invest any additional Commissioner, Deputy Commissioner or Tahsildar appointed under this section with all or any of the powers conferred by this Act on a Commissioner, Deputy Commissioner or Tahsildar as the case may be.

11. The Chief Commissioner may invest any Assistant Commissioner attached to a district with all or any of the powers conferred by this Act on Deputy Commissioners.

Chief Commissioner may invest Assistant Commissioner with powers of Deputy Commissioner.

12. Whenever any Assistant Commissioner, Tahsildar or Naib-Tahsildar is transferred from one district or tahsil to another, he shall, unless the Chief Commissioner otherwise directs, exercise in the district or tahsil to which he is transferred all the powers with which he was, under any provision of this Act, invested by the Chief Commissioner in the district or tahsil from which he is transferred.

Officers transferred to retain powers with which they were invested.

13. When a Deputy Commissioner dies or is disabled from performing his duties, such officer as the Chief Commissioner may by rule direct shall take executive charge of his district, and shall be deemed to be a Deputy Commissioner under this Act until a

Provision for discharge of duties of Deputy Commissioner dying or being disabled.

*(Part II—Chapter II—Of Revenue Officers :
their Powers and Procedure—Sections 13—15.)*

successor to the Deputy Commissioner so dying or disabled is appointed and such successor takes charge of his office, or until the person so disabled resumes charge of his office.

Chief Commissioner may alter limits of district or tahsil.

14. The Chief Commissioner may, from time to time, by notification in the official gazette, alter the limits of any district or tahsil, create new districts or tahsils and abolish existing districts or tahsils.

Power to invest Revenue Officers.

15. The Chief Commissioner may, subject to the control of the Governor-General in Council, invest any Revenue Officer with any of the following powers :—

With power conferred by Code of Civil Procedure.

for the purpose of disposing of cases under this Act, any power conferred by the Code of Civil Procedure¹ on a Civil Court ;

With power to delegate powers.

power to delegate to any Revenue Officer subordinate to him the exercise of any power or performance of any duty conferred or imposed on him by this Act ;

and, subject to the like control, may determine the Revenue Officer by whom any case or class of cases for which no express provision in this behalf is made in this Act shall be disposed of.

NOTE i.—The Chief Commissioner has invested all Revenue Officers with the following powers for disposal of business :—

Notification No. 4032, dated 16th August 1884.

(1) The powers conferred by the Code of Civil Procedure in respect of the summoning and enforcing the attendance of parties and witnesses, and compelling them to give evidence, of compelling the production of documents, of issuing commissions, and of referring matters to arbitration. Such powers to be exercised by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure.

Notification No. 6051, dated 16th October 1888.

(2) The powers conferred on the Civil Court by sections 218 to 222 both inclusive of the Code of Civil Procedure regarding costs and the powers conferred on a Civil Court by the said Code for the execution of decrees.

¹ See now the Code of Civil Procedure (Act XIV of 1882), printed, General Acts, Volume IV, Edition 1898, page 262.

*(Part II—Chapter II—Of Revenue Officers:
their Powers and Procedure—Section 15.)*

In the execution of any order of the nature of a decree including any order for the payment of costs, Revenue Officers shall, so far as may be, follow the procedure prescribed by the Code of Civil Procedure for the execution of a decree of the Civil Court.

Notification
No. 6052,
dated the 16th
October 1888.

NOTE ii.—Careful discrimination should be exercised in awarding cost in cases under the Land Revenue Act. In cases of a contentious character, partaking of the nature of suits, as, for instance, in disputed mutation and boundary cases, costs may be fitly awarded; but in cases which are merely undertaken in the administrative or fiscal interests of the Government, cost should not be levied or decreed, unless their levy is expressly provided for (as for instance) under section 112. Attention is invited to section 21 of the Act. Pleaders' fees and charges connected with the employment of Pleaders' or Mukhtars such as the costs of stamps on a Mukhtarnama or Vakalatnama or fees for writing out petitions should be very rarely included in the bill of costs.

Process fees should be included and charged at the rates prescribed by the Judicial Commissioner under section 20 of the Court-fees Act. Diet money and travelling expenses may be awarded. But care should be taken to keep the amount of costs decreed as low as possible.

NOTE iii.—The Chief Commissioner has authorized Deputy Commissioners to delegate to Assistant Commissioners, who have passed the Departmental Examination in Revenue Law and Procedure by the Lower Standard, the exercise of the powers connected with the maintenance of the Register of Proprietary Mutations which are conferred by sections 125 and 127 of the Act (Notification No. 3668 of the 28th June 1888). Deputy Commissioners have also been empowered to delegate—

(a) to all Tahsildars the powers conferred by the rules made under section 113, clause (b), of issuing processes for the arrest of defaulters or for the attachment or sale of their movable property, provided that no defaulter shall be confined in the Civil Jail and no property be brought to sale without the previous sanction of the Deputy Commissioner (Notification No. 3804, dated the 6th July 1888);

(b) to Tahsildars the powers connected with the maintenance of the Register of Proprietary Mutations which are conferred by sections

*(Part II—Chapter II—Of Revenue Officers:
their Powers and Procedure—Sections 15 & 16.)*

- 125 and 127 of the Act (Notification No. 2118, dated the 17th December 1909) ;
- (c) to Tahsildars selected with the approval of the Commissioner of the Division, the powers connected with the appointment, punishment, suspension and removal of village watchmen which are conferred by the rules under section 147-A of the Act (Notification No. 4834, dated the 21st July 1905).
- (d) to Assistant Commissioners who have passed the Departmental Examination in Revenue Law and Procedure by the Lower Standard and to Tahsildars the exercise of the powers conferred by the rules made under section 137 of the Act for the appointment of lambardars, mukaddams and mukaddam-gomashtas : provided that in the case of lambardars the powers shall be exercised only in order to fill vacancies caused by death or transfer of property, and provided also that the power shall not be exercised so as to increase the number of lambardars in a mahal. (Notification No. 2119, dated the 17th December 1909) ;

NOTE iv.—The Chief Commissioner has invested Commissioners with the power to delegate to Deputy Commissioners of districts the power to pass final orders under section 136-R of the Act on partition proceedings (Notification No. 930, dated the 21st March 1908).

NOTE v.—The Chief Commissioner has authorised Commissioners to delegate to Deputy Commissioners of Districts the power to decide, under section 22 (b) of the Act, all appeals from the decisions of Assistant Commissioners exercising the powers of a Deputy Commissioner, in cases relating to partitions and to the appointment, dismissal or punishment of village officers and servants. (Notifications Nos. 818—X-23-11 and 819—X-23-11, dated the 3rd May 1909.)

Power of
Deputy Com-
missioner to
distribute
work.

16. Subject to any rules which the Chief Commissioner may make in this behalf, a Deputy Commissioner may—

- (a) refer any case to any Revenue Officer subordinate to him for investigation and report, or if such officer has power to dispose of such case, for disposal ; or

*(Part II—Chapter II—Of Revenue Officers:
their Powers and Procedure—Sections 16—18-A.)*

- (b) direct that any Revenue Officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate and report on such case or class, or, if he has power, dispose of it himself.

The subordinate Revenue Officer shall submit his report on any case referred to him under this section for report to the Deputy Commissioner, or otherwise, as may be directed in the order of reference; and the officer receiving such report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer submitting the report, or may hold such investigation himself.

17. The Chief Commissioner, or the Financial Commissioner, the Commissioner or the Deputy Commissioner may withdraw any case pending before any Revenue Officer subordinate to him and either dispose of it himself, or refer it for disposal to any other Revenue Officer subordinate to him and having power to dispose of the same.

Power of superior Revenue authorities to withdraw and transfer cases.

18. All Revenue Officers and persons acting under their orders may, in the performance of any duty under this Act, enter upon and survey land, and demarcate boundaries, and do all other acts necessary to the business in which they are engaged.

Power of Revenue Officers to enter on land, &c.

18-A. (1) Any Revenue Officer or class of Revenue Officers and any officer appointed to make a settlement may, if especially empowered in this behalf by the Chief Commissioner, order all persons whose presence may be, in the opinion of the officer making the order, necessary for any of the purposes of this Act to attend either in person or by authorised agent at any specified time and place, and may also direct them to produce any written

Power of Revenue and Settlement Officers to require attendance of persons and production of documents.

1 Section 18-A was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 13, printed, Central Provinces Code, Edition 1891, page 278.

(*Part II—Chapter II—Of Revenue Officers :
their Powers and Procedure—Sections 18-A—20.*)

document in their possession, and all such persons shall be legally bound to obey the order.

(2) The power to require the attendance of parties in person shall, so far as may be, be subject to the provisions of section 176 of the Code of Civil Procedure¹.

NOTE.—The Chief Commissioner has conferred the above powers on all Revenue Officers of the class of Assistant Commissioners or a class, superior to this, and also on Settlement Officers (including Assistant Settlement Officers) in districts under settlement (Notification No. 1185, dated the 3rd March 1890).

Power to
make rules to
regulate
procedure.

19. The Chief Commissioner may, with the previous sanction of the Governor-General in Council, make rules consistent with this Act for regulating the procedure of Revenue Officer in cases for which a procedure is not prescribed by this Act, and may, by any such rule, direct that any provisions of the Code of Civil Procedure¹, shall apply, with or without modification, to all or any classes of cases before Revenue Officers.

NOTE (i).—See remarks under section 15

NOTE (ii).—The Chief Commissioner has made the following rule under this section:—

Whenever any party to a proceeding before a Revenue Officer neglects to attend on the date specified in the summons, the case may be heard and determined in his absence. The party against whom an order is passed *ex-parte* or in default may apply for an order to set it aside on the ground that he was prevented by any sufficient cause from appearing at the hearing and the Revenue Officer may, after notice to the opposite party, and after making the necessary enquiry, set aside the order passed *ex-parte* or in default (Notification No. 1352, dated the 23rd August 1912).

Persons by
whom
appearances
and applica-
tions may be
made before
and to Revenue Officer.

20. All appearances before, applications to, and acts, to be done before, any Revenue Officer under this Act may be made or done—

(a) by the parties themselves; or

(b) with the permission of the Officer, by their recognized agents or any legal practitioner:

¹ See the Code of Civil Procedure (Act XIV of 1882), printed, General Acts, Volume IV, Edition 1898, page 262.

(*Part II—Chapter II—Of Revenue Officers :
their Powers and Procedure—Sections 21—23.*)

Provided that the employment of a legal practitioner or recognized agent shall not excuse the personal attendance of a party to any proceeding in cases where such attendance is required by any order of the Revenue Officer.

Obligation of parties to attend in person.

21. The fees of a legal practitioner or recognized agent shall not be allowed as costs before any Revenue Officer unless such officer considers, for reasons to be recorded by him in writing, that such fees should be allowed.

Legal practitioner's or agent's fees not allowed unless for special reasons.

22. An appeal shall lie against every decision or order¹ under this Act—

Appeals.

(a) when such decision or order is passed by any Revenue Officer subordinate to the Deputy Commissioner, except an Assistant Commissioner exercising the powers of a Deputy Commissioner—to the Deputy Commissioner;

(b) when such decision or order is passed by a Deputy Commissioner, or by an Assistant Commissioner exercising the powers of a Deputy Commissioner, whether in the first instance or on appeal—to the Commissioner of the Division;

(c) when such decision or order is passed on appeal or otherwise by the Commissioner of a Division—to the Financial Commissioner:

Provided that in no case shall a third appeal be allowed.

NOTE—The Chief Commissioner has authorized Commissioners to delegate to Deputy Commissioners of Districts the power to decide, under this section, all appeals from the decisions of Assistant Commissioners, exercising the powers of a Deputy Commissioner, in cases relating to partitions and to the appointment, dismissal or punishment of village officers and servants, *vide* Note V, under section 15, *supra*.

23. No appeal shall lie—

(a) in the Court of the Deputy Commissioner or an Assistant Commissioner exercising the powers of a Deputy Commissioner—after the expiration of thirty days from the date of the decision or order complained of; or

Limitation, of appeals.

¹ Except in certain cases, *see* section 38, *infra*, page 28.

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*(Part II—Chapter II—Of Revenue Officers:
their Powers and Procedure—Sections 24—25.)*

(b) in the Court of the Commissioner—after the expiration of sixty days from such date; or

(c) in the Court of the Financial Commissioner—after the expiration of ninety days from such date.

XV of 1877.

In computing such periods of limitation, and in all respects not herein specified, the provisions of the Indian Limitation Act, 1877¹, shall apply.

Powers of
revision of
Commissioner
and Deputy
Commis-
sioner.

24. Any Commissioner or Deputy Commissioner may at any time, for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of, any Revenue Officer subordinate to him, call for and examine the record of any case pending before, or disposed of by, such officer, and may pass such order in reference thereto as he thinks fit:

Provided that he shall not under this section modify or reverse any order affecting any question of right between private persons, without having given to the parties interested reasonable notice to appear and be heard in support of such order.

Powers of
revision of
Chief Com-
missioner.

25. The Chief Commissioner or the Financial Commissioner may at any time call for and examine the record of any case pending before, or disposed of by, any Revenue Officer, and may pass such order in reference thereto as he thinks fit²:

Provided that no order affecting any question of right between private persons shall be passed under this section unless the Chief Commissioner or the Financial Commissioner has given the parties interested an opportunity of being heard.

Review of
orders.

26. Every Revenue Officer may, either on his own motion or on the application of any party interested, review and on so reviewing modify, reverse or confirm orders passed by himself or by any of his predecessors in office:

¹ Printed General Acts, Volume III, Edition 1898, page 75.

² As to restriction on revision of record-of-rights, see section 84, *infra* page 76.

Provided as follows:—

- (1) When a Commissioner or Deputy Commissioner thinks it necessary to review any order which he has not himself passed, and when an officer under the rank of a Deputy Commissioner proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction of the officer to whom he is immediately subordinate:
- (2) no order shall be modified or reversed unless reasonable notice has been given to the parties interested to appear and be heard in support of such order:
- (3) no order against which an appeal has been preferred shall be reviewed while such appeal is pending:
- (4) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings; and no application for the review of such an order shall be entertained unless it is made within ninety days from the passing of the order, on unless the applicant satisfies the Revenue Officer that he had sufficient cause for not making the application within such period.

For the purposes of this section, the Deputy Commissioner shall be deemed to be the successor in office of any Revenue Officer who has left the district or has ceased to exercise powers as a Revenue Officer, and to whom there is no successor in office.

24 *Central Provinces Land-revenue.* [ACT XVIII,
(*Part III—Of Survey and Settlement—Chapter III—Preliminary—Sections 27—29.*)

PART III.
OF SURVEY AND SETTLEMENT.

CHAPTER III.

PRELIMINARY.

Notification
of revenue-
survey.

Effect there-
of.

Notification
of settlement.

Power to
amend notifi-
cation.

Power to ap-
point settle-
ment officers.

27. Whenever it appears to the Chief Commissioner that a revenue-survey should be made in any local area, he shall publish a notification in the official Gazette directing that such survey be made and cause translations of such notification in the language of the district to be posted up in conspicuous places in such area; and thereupon all officers in charge of such survey, their assistants, servants, agents and workmen, may enter upon the lands to be surveyed, and erect survey marks, and do all other acts necessary for making the survey.

28. When any local area is to be settled, the Chief Commissioner may, with the previous sanction of the Governor-General in Council, issue a notification of settlement¹, and in such notification shall—

(a) define the local area to be settled;

(b) specify the operations which are to be carried out in the settlement;

and may, from time to time, with the like sanction, amend, alter or cancel such notification.

Every such notification, amendment, alteration and cancellation shall be published in the local official Gazette.

29. The Chief Commissioner may, from time to time, appoint one or more officers (hereinafter called Settlement Officers) to make the settlement of such area; and, when he appoints more than one such officer, he shall appoint one of them (hereinafter called the Chief Settlement Officer)² to control

¹ As to duration of settlement operations, see section 39, *infra*, page 40.

² Notwithstanding anything contained in section 29, the Chief Commissioner shall be deemed to have, and to have had, authority to assign to the Settlement Officer the title "Assistant Settlement Officer," and to the Chief Settlement Officer the title "Settlement Officer," see the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 40, printed, Central Provinces Code, Edition 1891, page 280.

(Part III—Of Survey and Settlement—Chapter III—Preliminary—Sections 30—32.)

such settlement, and all other officers appointed for the purposes of such settlement shall be subordinate to the Chief Settlement Officer.

The Chief Commissioner may suspend or remove any officer appointed under this section. and to suspend and remove them.

30. During the progress of the settlement of any local area, the Chief Commissioner may invest any Settlement Officer within such area with all or any of the powers of a Deputy Commissioner under this Act to be exercised by him in such classes of cases as the Chief Commissioner may from time to time direct. Settlement Officer may be invested with powers of Deputy Commissioner.

31. The provisions of section 11 and sections 15 to 26 both inclusive, shall apply, *mutatis mutandis*, to Settlement Officers and to proceedings before them, the expressions "Settlement Officer" being read for the expression "Assistant Commissioner" and "Revenue Officer," and the expression "Chief Settlement Officer" for the expression "Deputy Commissioner," wherever those expressions occur: Certain provisions of Chapter II applied to Settlement Officers.

Provided that an appeal from any appealable order passed by a subordinate Settlement Officer shall lie to the Chief Settlement Officer if preferred within sixty days from the date of such order:

Provided also that no appeal shall lie from any decision of a Chief Settlement Officer which can be called in question in a Civil Court.

32. The Chief Commissioner may, from time to time, with the previous sanction of the Governor-General in Council— Appointment of Settlement Commissioner.

(a) appoint a Settlement Commissioner, and transfer to him, within any local area under settlement, all or any of the powers which the Commissioner of the Division¹ if the land to be settled were wholly situate, within such Division,

¹ Section 31 does not apply to suits and appeals or other proceedings instituted before, or determined by, Settlement Officers in pursuance of powers conferred upon them under sections 33—35, see section 37, *infra*, page 28.

26 *Central Provinces Land-revenue.* [ACT XVIII,
(Part III—Of Survey and Settlement—Chapter III—Preliminary—Section 33)]

would otherwise exercise under this Act in matters connected with such settlement; and

Delegation to him of Chief Commissioner's powers.

- (b) delegate to the Settlement Commissioner such of his own powers in regard to matters connected with such settlement as he thinks fit.

Power to invest Settlement Officers with Civil Court powers.

33. When any local area is under settlement, the Chief Commissioner may invest any subordinate Settlement Officer with the powers of any of [the last five classes] of Courts described in section 4 of [the Central Provinces Civil Courts Act, 1885¹] and the Chief Settlement Officer with the powers of a Court of a Deputy Commissioner described in the same Act [section 7] for the trial, in the first instance, of any of the following classes of suits instituted within such area (namely):—

XVI of 1885.

- (a) suits for arrears of rent due on account of any right of pasturage, forest rights, fisheries or the like;
- (b) suits by lambardars for arrears of revenue payable through them by the proprietors whom they represent;
- (c) suits by proprietors for their share of the profits of an estate or any part thereof after payment of the revenue and village expenses, or for a settlement of accounts;
- (d) suits by muafidar or assignees of revenue for arrears of revenue owing to them as such muafidars or assignees;
- (e) suits by superior proprietors for arrears of revenue due to them as such superior proprietors;

¹ These words were substituted for the words "the first five grades," etc., by the Repealing and Amending Act, 1891 (XII of 1891), printed, General Acts, Volume VI.

² These words were substituted for the words and figures "the Central Provinces Courts Act, 1865," by the Repealing and Amending Act, 1891 (XII of 1891).

³ Printed, Central Provinces Code, Edition 1891, page 262.

⁴ This word and figure were substituted for the words and figures "sections 12, 19 and 20" by the Repealing and Amending Act, 1891 (XII of 1891).

(Part III—Of Survey and Settlement—Chapter III—
Preliminary—Sections 34 & 35.)

(f) suits by proprietors and others in receipt of the rent of land against any agents employed by them in the management of land or collection of rents, or against the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession ;

(g) suits regarding any matter which a Settlement Officer is required to decide or enter in the record-of-right, and of which Civil Court can take cognizance;

(h) suits relating to land, or the rent, profits or occupation of land.

34. When the Chief Commissioner invests any subordinate Settlement Officer with the powers of a Civil Court for the trial of any of the suits mentioned in section 33, the Chief Settlement Officer to whom such Settlement Officer is subordinate shall have the power of the Court of a Deputy Commissioner described in ¹ [the Central Provinces Civil Courts Act, 1885, ² section 16 and section 17, sub-section (1), and the powers of a Court of a Commissioner described in the same Act, section 15, sub-section (1)] with reference to proceedings before, or decrees and orders of, such Settlement Officer in such suits.

Chief Settlement Officer to have powers of Deputy Commissioner.

35. When any local area is under settlement and Settlement Officers have been invested with the powers mentioned in section 33 in such local area, the Chief Commissioner may, with respect to all or to any of the suits specified in that section, declare that all or any of the decrees and orders passed in exercise of the powers of Courts ³ [of the last four classes]

Appeals in suits specified in section 33 when to lie to Chief Settlement Officer.

¹ These words and figures were substituted for the words and figures "the Central Provinces Courts Act, 1863, sections 12, 19 and 20," by the Repealing and Amending Act, 1891 (XII of 1891), printed, General Acts, Volume VI.

² Printed, Central Provinces Code, Edition 1891, page 262.

³ These words were substituted for the words "the first four grades" by the Repealing and Amending Act, 1891 (XII of 1891), printed, General Acts, Volume VI.

(*Part III—Of Survey and Settlement—Chapter III—Preliminary—Sections 36—39.*)

aforesaid, by Assistant Commissioners or Tahsildars not being Settlement Officers, shall be appealable to the Chief Settlement Officer and not to the Deputy Commissioner of the district.

Division of civil works between Settlement Officers and ordinary Courts.

36. When any local area is under settlement and the Settlement Officers therein have been invested with powers under section 33, the Chief Commissioner may withdraw from the jurisdiction of the ordinary Civil Court within such area the classes of suits which Settlement Officers have power to dispose of under that section, or he may direct that in respect of such suits, the Settlement Officers shall have concurrent jurisdiction with the ordinary Civil Court :

Provided that no proceedings which have been inadvertently or erroneously taken before the Civil Court shall be deemed to be invalid merely on the ground that, by the Chief Commissioner's order, they should have been taken before a Settlement Officer.

Provision of section 31 not to apply to certain suits.

37. Nothing in section 31 shall apply to suits and appeals or other proceedings instituted before, or determined by, Settlement Officers in pursuance of powers conferred upon them under sections. 33, 34 or 35.

Appeal, reference and revision.

38. Except as provided in sections 33, 34 and 35, the decrees and orders of Settlement Officer passed, whether in the first instance or on appeal, in exercise of the powers of a Civil Court of any grade, shall, for the purposes of appeal, reference and revision, be deemed to be decrees and orders of a Civil Court of such grade, and no appeal shall lie under the provisions of section 22 from such decrees or orders

Duration of settlement operations.

39. Every settlement notified under section 28 shall be deemed to be in progress until the Chief Commissioner, by notification in the official Gazette, declares that it is completed.

Cases pending at close of settlement operations.

When the settlement of any local area has been notified as completed, all the powers exercised by the Settlement Officers in such area shall cease, and

(*Part III—Of Survey and Settlement—Chapter IV*
—*Of Demarcation—Sections 40—42.*)

all suits and applications pending before such officers shall be transferred to such of the Courts ordinarily having jurisdiction in such cases as the Commissioner of the Division directs or, if there are no such Courts, shall be disposed of in such manner as the Chief Commissioner directs.

CHAPTER IV.
OF DEMARCATION

Unowned Lands.

40. When any local area is under settlement, the Settlement Officer shall make lists of all lands in such area which appears to him to have no lawful owner, and shall thereupon issue a notification declaring his intention to demarcate such lands as the property of the Government and inviting every person having claims to or over them to present in his Court, within three months from the date of the notification, a petition in writing setting forth such claims and the respective grounds thereof.

41. Every such notification shall be deemed to be an advertisement under Act No. XXIII of 1863¹ (to provide for the adjudication of claims to waste lands), section 1 ;

the demarcation of such lands shall be deemed to be a disposition of them within the meaning of that Act ;

the Settlement Officer shall exercise all the powers vested in the Collector by that Act ; and claims to or over the land comprised in such notification shall be dealt with as nearly as may be in the manner prescribed in that Act.

42. Whenever a claim to the exercise or enjoyment of any right (not amounting to the right of exclusive possession) in, to or over any land comprised in such notification is established, either before the Settlement Officer or before the Court

Settlement Officer to invite claims to lands appearing to have no owner.

Application of Act XXII of 1863.

Procedure when limited right over land established.

¹ The Waste Lands Claims Act, 1863, printed, General Acts, Volume 1, Edition 1898, page 414.

(*Part III—Of Survey and Settlement—Chapter IV—Of Demarcation—Sections 43–45.*)

constituted under the said Act No. XIII of 1863, section 7, the Settlement Officer may assign to the claimant as his property a definite portion of such land or, with the sanction of the Chief Commissioner, he may otherwise compensate the claimant; and such assignment or compensation shall be held to extinguish all claims on account of such exercise of enjoyment.

Mahāls.

Power to
from mahals.

43. The Settlement Officer may declare any local area to be a mahal.

Excluded lands.

Settlement
officer may
exclude any
town or land
from settle-
ment opera-
tions.

44. For the purpose of excluding from all or any of the operations of the settlement any town or any land from which the owner can derive no profit, the Settlement Officer may mark off the site and determine the limits of such town or land:

Provided that no land in respect of which land revenue is payable at the date of the notification issued under section 28 shall, under this section, be exempted from assessment without the sanction of the Chief Commissioner.

Boundary-marks.

Erection of
new, and re-
pair of exist-
ing, boundary
marks.

45. When any local area is under settlement, the Settlement Officer may order all persons who have proprietary rights in the land comprised in such area [or who are in possession of the whole or any part of the land as gaontias or as thekaders of Government land, or as ryots who have accepted the assessment of a survey number] to erect boundary-marks of such description and at such places as he thinks necessary in order to define the limits of the mahals, fields or other lands in their possession, or to repair boundary-marks already existing, and may fix a reasonable time for obeying his order;

(Part III—Of Survey and Settlement—Chapter IV—
Of—Demarcation—Section 45 and Chapter V. Of
the Assessment of land-revenue—Sections 46–48.)

and, if his order is not obeyed within such time, may cause such marks to be erected or repaired under his own orders, and may recover the cost of such erection or repair from the persons against whom his order was made, in such proportion as he thinks fit.

CHAPTER V.

OF THE ASSESSMENT OF LAND-REVENUE.

46. On every mahal a definite and separate sum shall be assessed as land-revenue; but the sum so assessed may be reduced in such manner and to such extent as the Chief Commissioner thinks fit, for any period not exceeding ten years from the date on which the assessment takes effect:

Separate sum
to be assessed
on every
mahal.
Progressive
assessments.

[1] Provided that the Chief Commissioner may declare that any mahal which consists wholly or principally of forest is a forest mahal, and may direct that the assessment shall be a specified share of the gross or nett annual value of the produce of the mahal to be determined from time to time for each year, or part of a year, or that the assessment shall be in the form of rates chargeable on the produce of the mahal in each year or part of a year.

47. The Chief Commissioner may, from time to time, with the previous sanction of the Governor-General in Council, give instructions to the Settlement Officer as to the principle on which land revenue is to be assessed, and as to the sources of miscellaneous income to be taken into account in the assessment.

Matters as to
which Chief
Commissioner is to
instruct
Settlement
Officer.

NOTE.—Such instructions will be found in the Settlement Code.

48. In assessing a mahal all land situate therein shall be taken into account except the following (that is to say),:—

What land
taken into
account in
mahal
assessing.

- (a) land purchased free from revenue under any rules for the time being in force to regulate the sale of waste lands;

[1] This provision was added by the Central Provinces Land-revenue Act, 1889 (XVI of 1889, section 15).

(*Part III—Of Survey and Settlement—Chapter V—Of the Assessment of Land-revenue—Sections 49 & 50.*)

- (b) land in respect of which the revenue has been redeemed under any rules for the time being in force ;
- (c) land excluded from assessment under section 44 ;
- (d) land in respect of which a claim to hold it free from revenue as against the Government is established under the provisions hereinafter contained ;
- (e) land which the Chief Commissioner, subject to the control of the Governor-General in Council, may from time to time exempt from assessment.

Assessment to whom to be offered, be offered, 49. The assessment of every mahal shall be offered to the entire proprietary body of such mahal:

Provided that, when superior and inferior proprietary rights co-exist in the same mahal, the Settlement Officer may, subject to such rules as the Chief Commissioner may make in this behalf, determine whether the assessment shall be offered to the superior or to the inferior proprietors.

Subject to such rules as the Chief Commissioner may make in this behalf, the Settlement Officer may determine the manner and proportion in which the proprietary profits of the mahal shall be allotted between the superior and the inferior proprietors.

When a proprietor has mortgaged his rights in any mahal, and the mortgagee has entered into possession, such mortgagee, so long as he is in possession, shall, for the purposes of this section, stand in the place of the mortgagor.

Sub-settlement to be made with inferior proprietors when settlement is made with superior.

50. When in a mahal in which superior and inferior proprietors co-exist the Settlement Officer makes a settlement with the superior proprietors, he shall make on their behalf a sub-settlement with the inferior proprietors, by which such inferior proprietors shall be bound to pay to the superior proprietors an annual revenue equal to the land-revenue with

(Part III—Of Survey and Settlement Chapter V—Of the Assessment of Land-revenue—Sections 51—55)

which the mahal is assessed and to the profits to which the superior proprietors are entitled under section 49.

51. When in any such mahal the settlement is made with the inferior proprietors, the Settlement Officer may direct that the profits to which the superior proprietors are entitled under section 49 shall be paid by the inferior proprietors direct to such superior proprietors, or that such profits shall be collected as if they were land-revenue, and shall be paid to the superior proprietors from the Government treasury.

Power to give directions as to payment of certain profits of superior proprietors.

52. The Chief Commissioner may make rules prescribing the manner in which the Settlement Officer shall report for sanction his rates and method of assessment; and no assessment shall be offered without the previous sanction of the Chief Commissioner.

Power to make rules for reporting assessment for sanction.

53. In making any offer of assessment the Settlement Officer shall state that it is made subject to confirmation by the Governor-General in Council and also to revision by the Chief Commissioner at any time before such confirmation is received.

Offers of assessment to be made subject to revision and confirmation.

54. It shall be in the option of the persons to whom an assessment is offered to accept or refuse the same.

Option to accept or refuse assessment.

If they are willing to accept it, they shall make and sign an acceptance in writing, in such form as the Chief Commissioner may, from time to time, prescribe in this behalf and deliver the same to the Settlement Officer.

Manner of acceptance.

55. [1] Any proprietor who within such reasonable period as may be specified by the Chief Commissioner, fails to make, sign and deliver such acceptance, or to inform the Settlement Officer that he refuses the proposed assessment, shall, if the Settlement Officer by an order in writing so directs, be deemed to have accepted such assessment.

Proprietor not accepting in manner prescribed may be deemed to have accepted.

[1] As to the application of sections 55 and 56 to ryotwari settlements, see section 67-G, page 70.

(Part III—Of Survey and Settlement Chapter V—Of the Assessment of Land-revenue—Section 56 & 56-A (1).)

Effect of acceptance of assessment.

[1] 56. Whenever the assessment of a mahal has been accepted under this Act, the persons who have accepted it shall be bound to pay the amount thereof from such date and for such term as the Chief Commissioner may appoint in this behalf, or, if at the expiry of that term no new assessment has been made and is ready to take effect, until a new assessment has been made and is ready to take effect:

Provided as follows :—

Assessment may be rescinded by Chief Commissioner;

1st,—any assessment may be rescinded by the Chief Commissioner at any time before it has been confirmed by the Governor-General in Council;

or by Governor-General in Council.

2ndly,—the Governor-General in Council may rescind any assessment submitted to him for confirmation;

Malguzars may object to continuance of assessment beyond term of settlement.

3rdly,—if all the malguzars of a mahal, six months before the expiry of the term fixed under this section, apply in writing to the Deputy Commissioner stating that they are unwilling that the assessment should continue in force beyond the expiry of such term, the assessment shall, on the expiry of such term, cease to be in force.

When assessment is in form of rates, Deputy Commissioner to publish record of amount payable.

[2] 56-A. (1) If the assessment accepted is a specified share of the produce of a forest-mahal to be determined from time to time or in the form of rates chargeable on the produce of a forest-mahal, the Deputy Commissioner shall, from time to time, as the conditions of the assessment may require, notify to the malguzar, on or before such date, or at such intervals as the Chief Commissioner may prescribe, the amount payable in respect of the forest-mahal.

[1] As to the application of sections 55 and 56 to ryotwari settlements, see section 67-G, *infra*, page 70.

[2] Section 56-A (1) was inserted by the Central Provinces Land-revenue Act, 1889XVI of 1889, section 16, printed, Central Provinces Code, Edition 1891, page 278.

(Part III—Of Survey and Settlement Chapter V—Of the Assessment of Land-revenue—Sections 57 & 58.)

(2) The Deputy Commissioner and his subordinates may at any time enter on the forest-mahal and do all acts necessary for ascertaining the amount payable in respect thereof.

57. Where there is but one class of proprietors in a mahal, and all refuse to accept in manner required by section 54 the assessment offered, the Settlement Officer may, with the previous sanction of the Chief Commissioner, exclude them from settlement for a period not exceeding thirty years from the date of such exclusion, and may either let the mahal in farm, or take it under direct management.

Procedure when assessment is refused.

58. If some of the proprietors consent, and some refuse, so to accept the assessment offered, the Settlement Officer may, with the previous sanction of the Chief Commissioner, if the interest of the recusant proprietors in the lands taken into account in the assessment consists entirely of lands held by them separately from the other proprietors, exclude such recusant proprietors from settlement for a period not exceeding thirty years from the date of such exclusion, and either let their lands in farm or take such lands under direct management.

Procedure when only some proprietors accept assessment.

In other cases the assessment of the entire mahal shall be offered to the proprietors who consented to accept the assessment when originally offered, and if they refuse it the mahal shall be dealt with under the provisions of section 57.

When the recusant proprietors are excluded under this section, the lands of the proprietors who consented to accept the assessments originally offered shall be deemed to be a separate mahal, and shall be assessed as such; and such assessment shall be offered to the proprietors so consenting; and, if the lands of the recusant proprietors are let in farm, the farm shall be first offered to the proprietors who consented to accept the assessment originally offered.

(*Part III—Of Survey and Settlement Chapter V—
Of the Assessment of Land-revenue—Sections
59—62.*)

Procedure on
refusal of as-
sessment in
village in
which supe-
rior and infe-
rior rights co-
exist.

59. When an assessment is offered in a mahal in which both superior and inferior proprietors co-exist,—

- (a) if all the proprietors of the class with which the Settlement Officer proposes to make the settlement refuse to accept as aforesaid the assessment offered, the assessment shall be offered to the proprietors of the other class; and, if all such proprietors refuse the assessment, the Settlement Officer shall proceed as provided in section 57;
- (b) if some only of the proprietors of the class with which the Settlement Officer proposes to make the settlement refuse the assessment, he may either proceed as if all had refused it, or may deal with the mahal under section 58;

Provided that, if, in the case contemplated by clause (b), the proprietors, who consented to accept the assessment when originally offered, refuse to accept it, such assessment shall be offered to the other class of proprietors.

Procedure
on refusal of
assessment
by inferior
proprietors.

60. If all or any of the inferior proprietors refuse any assessment offered under section 50, the Settlement Officer may exclude them all from the sub-settlement, and assign the proprietary management and profits of the mahal to the superior proprietor for any term not exceeding the term of settlement.

Allowance
to excluded
proprietors.

61. Any proprietor excluded from settlement under section 57 or section 59, clause (a), shall be entitled to receive from the Government an annual allowance, the amount of which shall be fixed by the Chief Commissioner, but which shall not be less than five per cent or more than ten per cent on the amount of the assessment offered to him by the Settlement Officer.

Excluded
proprietors
to have
occupancy
rights in
their *sir*-land.

62. Any proprietor excluded from settlement or sub-settlement under sections 57 to 60, both inclusive, shall be entitled to retain possession of his *sir*-land (if any) as if he were an absolute-occupancy

(Part III—Of Survey and Settlement Chapter V—Of the Assessment of Land-revenue—Sections 63—65-A.)

tenant, and the rent to be paid by him for such land during the term of his exclusion shall be fixed by the Settlement Officer accordingly.

63. The aggregate amount of any allowance under section 61, and of the difference between the rent fixed under section 62 and the rent which the excluded proprietor would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent on the amount of the assessment offered to him by the Settlement Officer.

Aggregate amount of allowance granted to, and deduction from rent allowed to, excluded proprietor.

64. The Settlement Officer may make, on behalf of malik-makbuzas or other like holders of land, such a sub-settlement as shall secure to them from the malguzars of the mahal their existing rights; and may provide that, in addition to the land-revenue payable by them, they shall pay to the malguzars such percentage thereon, not exceeding twenty per cent, as may, in his opinion, be sufficient to compensate the said malguzars for their responsibility in respect of the land-revenue, and to provide for the fees of lambardars and mukaddams.

Sub-settlement with malik-makbuzas and other like holders of land.

65. The amount of revenue payable under a sub-settlement shall be a first charge upon all the land comprised in such sub-settlement.

Revenue payable under sub-settlement to be first charge on land.

[1]65-A (1) The settlement Officer may inquire into the claim of any person holding from a proprietor a village or part of a village as thekadar, gaontia or farmer, and may, notwithstanding any contract to the contrary and with the previous sanction of the Chief Commissioner, declare such thekadar, gaontia or farmer to be "protected" for the purposes of this section:

Power to inquire into the claims of thekadar, gaontias and farmers.

Provided that no thekadar, gaontia or farmer shall be declared to be protected under this section, unless he or those from whom he has inherited has or have been a possession of the village or part of

The present section 65-A was substituted by section 3 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), for the section 65-A inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 17, printed, Central Provinces Code, Edition 1891, page 278.

(Part III—Of Survey and Settlement Chapter V—
Of the Assessment of Land-revenue—Section
65-A.)

the village for a period of not less than twenty years, or unless it is proved to the satisfaction of the Settlement Officer that he or those from whom he has inherited has or have established the village or substantially improved it at his or their own cost.

Provided also that, when a thekadar, farmer or gaontia is entitled to claim protection within the meaning of this section, the Settlement Officer may, in his discretion and with the previous sanction of the Chief Commissioner, instead of declaring him to be protected, confer on him the rights of an occupancy tenant in respect of the whole or part of any land which he may be cultivating, whether as *sir*-land or otherwise at the time of the inquiry, and shall determine the rent payable by him as occupancy tenant of such land.

(2) When a thekadar, farmer or gaontia is declared to be protected under this section, the Settlement Officer may, at the request of the proprietor of the village, determine the amount of the theka-jama which shall be payable by such thekadar, gaontia or farmer to the proprietor of the village on and from the date on which the settlement of the village takes effect.

(3) Any person who, having held any village or part of a village as thekadar, farmer or gaontia was ejected by the proprietor from, or lost possession otherwise than by transfer, or voluntary surrender of, such village or part of a village, and who had at the date of such ejectment or dispossession earned a claim to be protected, may at any time before the expiration of two years from the date of such ejectment or dispossession apply to the Settlement Officer to reinstate him in the possession of the village or part of the village from which he was ejected; and the Settlement Officer may, with the previous sanction of the Chief Commissioner, replace him in the possession of such village or part of a village and declare him to be protected, or may confer upon him the rights of an occupancy-tenant in the whole or part of any land in the village which he was cultivating at the

(Part III.—Of Survey and Settlement—Chapter V—Of the Assessment of Land-revenue—Section 65-A.)

time of his ejectment, and place him in possession of such land and determine the rent which shall be payable by him to the proprietor as such tenant.

Explanation.—Any such person as is described in this sub-section who, having been ejected subsequently to the first day of January 1893, applied to a Revenue Officer for reinstatement within two years of his ejectment shall be deemed to have made the application required by this sub-section.

(4) The incidents of the tenure of a thekadar (including a farmer or gaontia) who has been declared to be protected under this section shall be as follows :—

(a) the tenure shall be heritable, but not transferable by sale, gift, mortgage or dower; it shall not be saleable in execution of any decree, nor shall any decree be passed for the sale thereof; and, save in so far as any arrangements to the contrary are in force at the time of the declaration, it shall not be partitioned and shall devolve on one member only of the thekadar's family;

(b) when on the death of a thekadar there are two or more heirs bearing the same relationship to him, the eldest of such heirs shall succeed:

Provided, first, that of such heirs an heir who was joint with the thekadar shall have preference over an heir who was separate: and

Provided, secondly, that the eldest of two or more such heirs shall be at liberty, at the time of succession, to resign his right in favour of another heir bearing the same degree of relationship to the deceased thekadar as he himself bears;

(c) a protected thekadar, whether holding under a written lease or a verbal agreement, shall be entitled to a renewal of

(*Part III—Of Survey and Settlement—Chapter V—Of the Assessment of Land-revenue—Section 65-A.*)

his lease on its expiry, on his agreeing to farm his village at a fair and equitable theka-jama ;

(*d*) in the event of any dispute arising between the proprietor and the protected thekadar as to what is a fair and equitable theka-jama, the matter shall be referred to the Deputy Commissioner, whose decision shall, subject to revision by the Commissioner and Chief Commissioner, be final ;

(*e*) not more than one enhancement of the theka-jama or where it is so specially provided in the terms of the settlement of the village, no enhancement of the theka-jama shall be imposed on a protected thekadar during the currency of a settlement ;

(*f*) all miscellaneous dues and cesses, unless specially authorized by the Chief Commissioner, shall be included in the theka-jama payable under the lease ; and ;

(*g*) a protected thekadar shall comply with the rules made under section 124-A for the management of malguzari forests.

(5) In any proceedings before a Court for the ejectment of a thekadar, gaontia or farmer, if it appears that the thekadar, gaontia or farmer has filed an application before a Revenue Officer to obtain a declaration that he is protected, or if he files such an application before the Court, the Court shall stay proceedings until the application has been disposed of in accordance with the provisions of this Act, and shall, if the application is filed before itself, forward such application to the Deputy Commissioner or Settlement Officer for disposal.

(6) If any protected thekadar, gaontia or farmer is shown to have, since the commencement of the Central Provinces Land-revenue Act, 1898, contravened, or to be contravening, the condition of his tenure as contained in clause (*a*) or clause

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(g) of sub-section (4), or to have grossly mismanaged the village held by him in lease, the Settlement Officer or Deputy Commissioner may, with the previous sanction of the Chief Commissioner, declare such thekadar, gaontia or farmer to have forfeited the protection previously conferred on him under this section, and such thekadar, farmer or gaontia shall from the date of such declaration cease to be protected.

(7) Nothing in this section shall affect the liability of any protected thekadar, farmer or gaontia to ejectment in execution of a decree for ejectment passed in accordance with any law for the time being in force and not inconsistent with this Act, on the ground—

- (a) that he has failed to pay the theka-jama legally payable by him;
- (b) that he has diverted the culturable land of the village to non-agricultural purposes, or is chargeable with some act or omission which renders him liable to be ejected.

NOTE. I.—In several districts, which have not yet been brought under settlement, proprietors are taking steps to procure the ejectment, through the medium of the Civil Courts, of thekaders, whose claims to protection under this section might be recognized at settlement, were they left in possession till then. Under section 132 (i) the Deputy Commissioner has the power of a Settlement Officer for the protection of thekaders and can, therefore, at once intervene to stop such ejectment should they be attempted. Deputy Commissioners of districts in which settlement operations have not yet begun should, therefore, arrange to keep themselves informed of any ejectment suits of this nature which may be instituted in the Civil Courts, and should apply to have the trial postponed until executive inquiries have been made into the equities of the case.

NOTE II.—Under section 65-A, originally introduced by the Amending Act of 1889, the Settlement Officer (or the Deputy Commissioner when there was no settlement in progress) had the power to enquire into the claims of thekaders who had been in possession since the last preceding settlement, or had established the village or

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substantially improved it, and to protect them from arbitrary enhancement or ejectment. This step required the previous sanction of the Chief Commissioner, and was effected by the insertion of clauses defining their status in the *wajib-ul-arz*. The law was silent on many points which were likely to arise, such as the payment of rent, the powers of the thekadar, and so forth, and it contained no provision for reinstating thekadars ejected before the order protecting them was passed, or for enabling a Settlement Officer to protect them in their home-farm only, instead of in the whole village. These defects have now been remedied in the substituted section 65-A, which should be carefully studied by Revenue Officers. The qualifications for protection remain the same as before, except that the length of tenure qualifying for the privilege is now a fixed period of twenty years, instead of one varying with the length of time which has elapsed since the last settlement. The attention of Deputy Commissioners is specially drawn to sub-section (3) providing for the reinstatement of ejected lessees who had earned protection, and especially to the explanation attached to that sub-section. This latter is intended to apply to a class of cases which require immediate action or none at all, namely, to that of lessees who were ejected not more than six years before the passing of the Act, that is to say, subsequently to the first of January 1893, and applied within a reasonable time, that is to say, two years, to be re-instated. Several such cases occurred in the districts of Seoni and Balaghat, and others like them have doubtless occurred in other districts also. Deputy Commissioners and Settlement Officers should do their best to trace cases of this kind, and reopen any in which their then want of power to reinstate the ejected lessees has caused serious hardship. Action under this special explanation in relief of persons who were prejudiced by delay in revision of the law is of course permissive, and there may well be circumstances in which the re-opening of the case would cause an amount of hardship to innocent parties with which the advantage to the ejected lessee after this lapse of time would be incommensurate.

NOTE III.—The rights and liabilities of a protected thekadar are now clearly defined by sub-sections (4), (6) and (7), his obligation on pain of forfeiting his protection to manage the village well, observe the *malguzari* forest rules and pay his *theka-jama* punctually being likewise affirmed. The chance of conflict of jurisdiction between the Civil and Revenue Courts, which frequently arose under the old section, is now obviated by the provisions of sub-section 5,

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which requires a Civil Court to stay proceedings in ejectment suits when the defendant thekadar applies for protection. It has also been made clear in sub-section (1) that a thekadar cannot contract himself out of the advantages of the section.

66. When the whole of the land comprised in a mahal is held in severalty, the Settlement Officer shall apportion to the several holdings the amount with which such land is assessed under a settlement or sub-settlement.

When only part of the land comprised in a mahal is held in severalty, the Settlement Officer shall apportion such amount to the part held in common and the part held in severalty, and shall further apportion to the several holdings the amount to which they are liable under the former apportionment.

67. When by established custom the land held by each proprietor in any mahal is subject to periodical re-distribution, the Settlement Officer may, in his discretion, on the application of the proprietors, make such re-distribution according to such custom.

Procedure in Ryotwari Settlements.

67-A (1) The Chief Commissioner may make rules for the assessment of land held by ryots direct from the Government.

(2) Such rules may provide for the sub-division of occupied and unoccupied land into survey numbers, on each of which a separate assessment shall be made:

Provided that no such survey-number shall include land occupied in separate interests by more ryots than one at the time of its formation.

(3) Where the lands of a village have been divided into survey-numbers, on each of which a separate assessment has been made, the village may be declared by the Chief Commissioner to be a regularly settled ryotwari village.

¹ This heading and sections 67-A to 67-I were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 18, printed, Central Provinces Code, edition 1891, page 278.

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(4) The assessment made on a survey-number may be either fixed or progressive, or in the form chargeable according to the results of each harvest.

Assessment
to whom to
be offered.

¹ 67-B. (1) The assessment of each survey-number in a regularly-settled ryotwari village shall, in the first place, be offered to the ryot (if any) holding the survey-number.

(2) If such ryot refuses to accept the assessment, he may be ejected as if for non-payment of revenue, and the assessment may be offered—

(a) to any co-partner of the ejected ryot, and, if he also refuses,

(b) to any other person.

Assessment
of unoccupied
survey-num-
bers.

¹ 67-C. A survey-number formed from unoccupied land in a regularly-settled ryotwari village may be allotted by the Settlement Officer at the time of settlement or by the Deputy Commissioner during the currency of the term of settlement to any person who accepts the assessment made upon it.

Responsi-
bility of ryots
for assess-
ment.

¹ 67-D. (1) A ryot who has accepted the assessment of a survey-number in a regularly-settled ryotwari village, and his representatives and assigns, shall be responsible for the payment of the land-revenue assessed on such survey-number during the term of settlement, unless he or they has or have relinquished the survey-number by presenting at the tahsil office a written notice of relinquishment.

(2) Such notice of relinquishment shall take effect from the first day of April next following the date of the presentation thereof.

Right of ryot
inheritable
but not trans-
ferable.

¹ 67-E. (1) The right of a Government ryot in a survey-number held by him shall devolve as if it were land, but is not transferable except

¹ These sections were inserted by section 18 of the Central Provinces Land revenue Act, 1889 (XII of 1889), printed, Central Provinces Code, Edition 1891, page 278.

to a person who, if he survived the ryot, would inherit his right, or to a co-sharer in such right, or, with the permission of the Deputy Commissioner, by a lease to a sub-tenant cultivating under the ryot.

(2) The right of a ryot in a survey-number held by him shall not be sold in execution of a decree.

(3) A ryot is not entitled to claim partition of a survey-number, but the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, partition a survey-number and apportion the assessment between the holders thereof.

(4) Nothing in this section shall affect the rights of ryots on whom proprietary rights in survey-numbers held by them have been conferred by special orders.

NOTE.—Ruling by the Financial Commissioner, Central Provinces and Berar, in Revenue Appeal No. 68 of 1911, from the decision of the Commissioner, Nerbudda Division, in appeal No. 46—K of 1910-11, regarding the respondent being recorded as a partner in certain survey numbers.

Jaising, son of Keloo, Banjara, of mauza Pipalgaon ryotwari, residing at Dongargaon ryotwari in the Burhanpur Tahsil of the Nimar District } Appellant,

versus

Kheta, son of Bhona, Banjara, of Dongargaon ryotwari in the Burhanpur Tahsil of the Nimar District, } Respondent.

ORDER.

Survey numbers 4 and 5 of mauza Pipalgaon in the Nimar District were allotted to one Jaising, Banjara, who thereby became a Government ryot, his rights being defined by Section 67-E of the Land Revenue Act. One of the conditions of this tenure is that it is not transferable, except to a person who if he survived the ryot would inherit his right, or to a co-sharer in such right.

A practice has sprung up in Nimar of allowing Government ryots to take partners in their holdings, and, on the 2nd March 1909, Jaising applied to be allowed to take one Kheta as his partner, and the Sub-Divisional Officer of the tahsil passed an order, on 6th May 1909, that he might do so if he liked.

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If the effect of admitting Kheta into partnership was to give him any interest in the holding, the act was a transfer of a portion of the right to Kheta, a transfer which the law distinctly forbids, and which the Sub-Divisional Officer could not permit.

As the law at present stands, therefore, a Government ryot cannot be allowed to take a partner in his cultivation whether with or without permission except at allotment (Rule 2 of rules for allotment) and the order of the 6th May 1909 granting permission conferred no rights whatever on Kheta, and he should not have been recorded as a sharer in the holding.

The so-called partnership has led to quarrels and Jaising has applied to have Kheta's name struck off. The Deputy Commissioner granted the request, but the Commissioner has reversed the Deputy Commissioner's order on the ground that the law gives the Deputy Commissioner no power to remove the name of a man who is recorded as a Khatedar.

I hold that the creation of a partner is a transfer of a portion of the right of the Government ryot and is forbidden by section 67-E (1) of the Land-revenue Act, and that such transfer could not be sanctioned, and that therefore Kheta has acquired no rights whatever in the land, and ought not to have been recorded as part owner.

I accordingly allow the appeal and direct that Kheta's name be struck off the village papers as part owner of survey numbers 4 and 5 of mauza Pipalgaon.

Power to
make rules
for survey
numbers,

67-F. The Chief Commissioner may make rules—

- (a) prescribing the procedure under which unoccupied survey-numbers may be allotted to ryots during the currency of the term of a settlement ;
- (b) providing for the appointment, in the case of survey-numbers held by two or more ryots in co-partnership, of one of such ryots to be primarily responsible for the payment of the land-revenue assessed on such survey-numbers ;

¹ This section was inserted by Sections 18 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889), printed, Central Provinces Code, Edition 1891, page 278.

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- (c) providing, in cases in which the assessment is in the form of rates chargeable according to the results of each year or harvest, for the manner and time in and at which the amount chargeable is to be notified to the ryot.

NOTE.—The Chief Commissioner has issued the following executive orders regarding the allotment of survey-numbers in ryotwari villages :—

1. Land may be allotted either (a) to ryots direct, or (b) through the agency of a patel. Save as is provided in the special rules for rice villages, allotment shall always, where possible, be made to ryots direct, and the agency of patels be only employed in cases, where owing to remoteness or any other cause, ryots cannot be induced to settle without a leader.

2. A person wishing for land must take a whole survey-number or a number of survey-numbers. Survey-numbers cannot be divided. But two or more persons may take up a survey-number in partnership, provided that the name of any one of them will be entered in the kabuliāt and records as khatedar.

3. The maximum area which shall ordinarily be allotted to a patel or to a ryot shall be as fixed for the district by the orders of the Commissioner of Settlements and Agriculture.

4. Persons taking survey-numbers must pay for their permanent demarcation according to a scale fixed for the district. Such payment should ordinarily be made at the time the application is put in, and will be refunded if the application is refused.

5. Persons taking survey-numbers may cut the wood on the ground unless it is specially valuable, when the Forest Department will be authorized to cut and clear it. Provided that the cutting of fruit-bearing trees may be prohibited by special orders.

6. The object of Government in setting independent villages is to procure resident cultivators, and in villages where a separate basti is to be established, persons taking land will be expected to reside unless specially exempted. Land will not ordinarily be allotted to others than agriculturists.

7. Application for land may be refused without giving reasons.

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(a) SPECIAL RULES FOR ALLOTMENT TO RYOTS DIRECT.

8. Applications for survey-numbers should be presented unstamped, in the form annexed, to the Tahsildar who will submit them to the Deputy Commissioner for his orders. Special arrangements may, however, be made for allotment on the ground by special agency. In the case of there being competition for land, a date will be fixed for the disposal of applications, and the allotting officer will have the option of selecting. In backward tracts, where this system of allotment is found to be unworkable, the Deputy Commissioner, may with the previous sanction of the Commissioner, dispense with such formal applications and may permit the allotment of land to be made by the managing (mukaddam) patel or by the Revenue Inspector, or under any other system which may be found suitable.

9. A kabuliati in the annexed form will be taken from each ryot at time of allotment.

9-A. A certificate in the following form will be given to each ryot at the time of allotment. Forms may be obtained from the office of the Director of Land Records.

Tenant's Patta (ryotwari)

Name of village Tahsil District
Name of Government Ryot, }
father's name, caste and }
residence.

Khasra No.	Area.	Payments.			First Kist.		Second Kist.		Remarks.
		Re-venue.	Cess-es.	Total.	Re-venue.	Cess-es.	Re-venue.	Cess-es.	
Total ...									

Dated the 19 , Deputy Commissioner,
Assistant Settlement Officer,
District.

If the ryot has received permission to reside outside the village, the fact should be stated in the column for remarks.

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10. The assessment due on allotted numbers will ordinarily be payable from the 1st July next succeeding the date of allotment. But the term may be extended for special reasons under the sanction of the Commissioner of the Division.

10-A. If the land is to be broken up for the first time, the levy of the full assessment will be deferred : thus—

(i) The revenue for the first year will in any case be remitted ;

(ii) In a tract in which—

- (a) The soil is of marked fertility, or
- (b) Facilities for irrigation have been provided otherwise than at ryot's expense, or
- (c) Allotment is made to aboriginal tribes, the usual conditions will be—
In the first year, total exemption,
In the second year, half revenue,
In the third year, full revenue;

(iii) In a tract in which none of these three special conditions exists, the Commissioner of the Division may fix three years as the normal term of exemption ;

(iv) In a tract in which allotment is made to aboriginal tribes, if their instrumentality is necessary in clearing down jungle growth or in opening up malarial localities to the better classes of cultivators, the Commissioner may grant full exemption for three years or special exemption for a further term.

If land has been cleared and has relapsed into waste, the Commissioner of the Division may, by general or special order, authorise temporary remission within the limits specified for newly broken land.

(b) SPECIAL RULES FOR ALLOTMENT THROUGH PATELS.

I.—General.

11. A patel who successfully settles a village under Rule 18 will have the title of 'watandari patel.' His tenure will be hereditary, but not transferable or liable to

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partition. He shall be entitled to commission on the revenue collected by him at favoured rate to be fixed under the orders of the Chief Commissioner for the term of settlement.

12. Ryots who settle under a patel will be Government ryots, and not the patel's tenants.

13. A watandari patel will pay jama on his land like the ryots, and his remuneration will be by commission on the revenue collected by him.

14. A watandari patel shall be bound on pain of removal to live in his village, unless he obtains special permission to keep an agent there instead of residing himself.

15. A watandari patel will be liable to dismissal if he fails to settle his village under the rules, or for gross misconduct. In such cases he will be liable to ejectment from all land held by him in excess of the ryoti maximum.

II.—Establishment of non-rice villages through a Patel.

16. The allotment of land to ryots will be effected by Government and not by the patel, though the recommendations of the patel will receive full consideration. It will be subject to the general conditions laid down by Rules 1—6.

17. The maximum area which the patel may take up for his own cultivation will be fixed in the terms of each grant, and shall not be less than treble the ordinary maximum for ryots.

18. It will be a condition of the grant that the patel shall arrange for the taking up of half the survey-numbers in the village within three calendar years of the date of receiving possession. The grant of watandari right by sanad will not be made until this condition has been fulfilled.

19. No revenue will be demanded for the village from the patel for a period of three years, commencing on the 1st July next following the date of grant. In the interim the patel may collect and appropriate the revenue payable by ryots under Rule 10. Ryots will ordinarily be allowed under this rule to hold free of revenue till the year commencing on the 1st July next but one following the date of allotment.

20. An agreement will be taken from a patel in the annexed form when the grant is first made to him.

*(Part III—Of Survey and Settlement—Chapter V—
Of the Assessment of Land-revenue—Section 67-F.)**III.—Establishment of rice villages through a Patel.*

21. In the case of rice land villages, the establishment of which requires the expenditure of money on a tank, allotment to a patel may be made in anticipation of detailed survey and assessment in accordance with the procedure and principles described below. The patel will be left to make his own arrangements for allotting land to ryots and levying revenue from them, until the village is brought under survey and settlement.

22. The lessee of a rice village will be entitled to the status of watandari patel on the expenditure in constructing an irrigation tank of a sum (to be fixed by the Deputy Commissioner with reference to the size and requirements of the village) of not less than Rs. 200, within a period fixed by the Deputy Commissioner.

23. The period for which the revenue of the village will be remitted will depend on the amount of money spent on a tank or tanks in accordance with the following scale, the maximum period of remission being twenty years:—

Expenditure.	Term for which revenue to be remitted.
Rs. 500 or less	... One year for every Rs. 100*
Exceeding Rs. 500	...
For the first Rs. 500	... One year for every Rs. 100*
Rs. 501 to Rs. 1,500	... " " " 200*
Rs. 1,501 and over	... " " " 300*

Illustrations.

(1) On an expenditure of Rs. 750 revenue would be remitted for six years, thus—

	Rs.
Five years for	500
One year for	200
Nil for remaining	50

(2) On an expenditure of Rs. 3,250 revenue would be remitted for 16 years, thus—

	Rs.
Five years for	500
Do.	1,000
Do.	1,500
One year for	250

* Omitting fractions if less than half the amount, and counting them as whole sums if as much as half the amount.

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24. The agency by which the expenditure on irrigation tanks is to be ascertained will be as follows :—

- (i) Where the expenditure does not exceed Rs. 500, it should be estimated by a Tahsildar or an Assistant Settlement Officer with the aid of a local panch ;
- (ii) Where the expenditure exceeds Rs. 500, but does not exceed Rs. 1,000, it should be estimated by an Assistant Commissioner or an Assistant Settlement Officer with the aid of a local panch ;
- (iii) Where the expenditure exceeds Rs. 1,000, it should be estimated by the Deputy Commissioner or Settlement Officer with the aid of a local panch.

All estimates made under these rules should, if possible, be checked by a duly qualified Public Works Department official.

25. The practical carrying into effect of these rules will be left to Deputy Commissioners under the guidance and control of Commissioners of Divisions, but it should be carefully noted that before any village is settled on these terms, it must have been (a) formally excised from Government forests, (b) completely demarcated, (c) peripherally surveyed and mapped by the Settlement Department.

26. These villages will ultimately be brought under ryotwari settlement, the patel receiving a commission on the revenue, which will be calculated on a more liberal scale than that allowed to ordinary patels. But the institution of operations for survey and assessment will be postponed until the period of revenue remission has nearly expired, and, meanwhile, the patel will be able to make his own arrangements with his ryots. All grants should be entered in a register in the annexed form, and the Deputy Commissioner will be responsible that arrangements are made for the introduction of settlement at least a year before the concession expires.

27. An agreement embodying the terms of grant will be taken from every patel through whom a village is settled under these rules at the time he is given possession. He will be liable to the provisions of Rules 14 and 15 above.

*(Part III—Of Survey and Settlement—Chapter V—
Of the Assessment of Land-revenue—Section 67-F.)**Management.*

28. Neither patel nor ryots will have any right of user whatever over areas recorded as *minhai darakhtan* or unallotted numbers, though such user may be permitted by the Deputy Commissioner. They will not be permitted to cut trees fringing streams, trees used as survey marks, or fruit trees specially reserved at settlement.

29. The construction of a drinking-water well for public use will entitle the constructor to a release of revenue on any survey-number held by him up to an amount equal to 12 per cent. on his outlay, for a period of 15 years from the date of construction. Provided that this concession be not made on account of more than two wells in each village. The planting of a mango grove, open to public use, will entitle the person planting it to a remission of the revenue on the area occupied by the trees, from the date of the establishment of the grove, for such period as it is maintained for public benefit. Certificates will be given in both classes of grants. But no such grants shall be made without the Commissioner's previous sanction.

30. Unallotted survey-numbers are not to be managed by Government with the object of obtaining forest revenue from them, and the sales of forest produce from such unallotted numbers is prohibited.

Subject to the condition that no timber may be cut, such areas should be left free for the use of the villagers until allotted, provided that if in consequence of this privilege it be found that the villagers are discouraging allotment, the Deputy Commissioner may arrange for their lease through the patel to the village community or, with the previous sanction of the Commissioner, to an outsider, if the village community refuse to accept the lease or persist in discouraging allotment.

Treatment of Abadis and Abadi Baris.

31. The following method of management should be adopted in all classes of villages.

32. A *minhai abadi* may be set aside at settlement, but ryots are not to be restricted to it.

33. Any ryot is at liberty to settle in his own survey-number notwithstanding the existence of a *minhai abadi*.

34. The distribution of *baris* (including house sites) in the *minhai abadi* rests primarily with the patel; but in the event of his allotting inconveniently large sites to individual settlers, the Deputy Commissioner may reduce the size of *baris* so as to make room for new settlers.

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35. No *baris* under a minimum area (to be fixed for each district by the Commissioner) will be surveyed: but all residents holding *abadi baris* will pay rent for them: a minimum rent to be fixed by the Commissioner for each district will be paid on the unsurveyed *baris* and the larger *baris* will be assessed in proportion to their area, *e. g.*, *baris* below '25 acre not to be surveyed and to pay Re. 0-4-0; *baris* from '25 to '50 to pay Re. 0-8-0; from '50 to '75 to pay Re. 0-12-0; and so on. The minimum area requiring survey should be so fixed that little survey will be required.

36. It will be open to any ryot or group of ryots to establish a new *basti* in an unoccupied survey-number, but they will be liable for the revenue of that number until the Deputy Commissioner on the application of the patel or otherwise converts the survey-number into *minhai*, when the *abadi bari* fees will become payable under rule 35.

37. Whenever an *abadi* site is deserted and the land is taken up for cultivation, the Revenue Inspector should report the fact to the Deputy Commissioner stating the area and soil class. The Deputy Commissioner will then order the field to be struck off the *minhai* and entered as occupied, at the same time assessing the revenue at the village rates.

Form of Application for a Survey-number.
Serial No.

Name of applicant, father's name, caste, means of livelihood and residence.	Name of village in which land is applied for.	Khasra number of the survey-number which is applied for.	Area of survey-number.	Purpose for which required.

1. I have myself seen and approved of the survey-number for which I apply.
2. I agree to pay the Government revenue assessed on the survey-number and to accept the conditions of settlement as prescribed by Government.

Dated _____ (Sd.) _____

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Of the Assessment of Land-revenue—Section 67-F.)

Form of Ryoti Acceptance.

I, _____, son of _____, caste _____, at present residing at _____, hereby accept the assessment of survey-number _____ in mauzah _____ jama Rs. _____, on ryotwari terms, under the provisions of Section 67-D of the Central Provinces Land-revenue Act, as amended by Acts XVI of 1889 and XII of 1898.

2. I agree to pay the jama through the patel, with effect from the 1st July 19 _____.

In addition I will pay Rs. _____ as cesses or such cesses as may from time to time be fixed by law. I agree to subscribe to remunerate a kotwar at such rates as may be prescribed by the Chief Commissioner, not exceeding one anna in the rupee of revenue. The jama will not be liable to enhancement till the year _____.

3. I acknowledge myself bound by the following conditions:—

(i) I have no claim to the produce of any land outside my survey-number or of any land recorded as minhai.

(ii) I will not cut any trees on the borders of nalas adjoining or included as minhai in my survey-number—nor will I cut mahua or mango trees growing in my survey-number, or any trees which have been used as survey marks.

(iii) I will construct a house in the village and will myself reside there permanently.

I admit that a breach of any one of these conditions will warrant my ejectment.

Signed _____

Dated _____

Countersigned _____

Deputy Commissioner, or

Assistant Settlement Officer.

*To be out out in cases where residence is not insisted upon.

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Form of Agreement of Patel.

I, _____, son of _____, caste _____, now residing at _____, engage to settle the waste village of _____, to keep the ryots contented, and to collect and pay in regularly the Government revenue due on all occupied survey-numbers in all the villages. In return for this the Government appoints me to the office of patel and grants me the additional privileges of (a) holding more land than I should be entitled to as a ryot, and (b) of a drawback on the revenue collected by me each year, which during the currency of this settlement will be fixed at _____ per cent. I acknowledge myself bound by the following conditions:—

- (i) The office of patel is hereditary, but not transferable.
- (ii) I will never allow the number of resident and revenue-paying ryots to fall short of a number sufficient to keep at least half the survey-numbers in the village occupied, allowing not more than two survey-numbers to each ryot, and not taking myself more land than is now allotted to me.
- (iii) I will maintain a small house for travellers if required by the Deputy Commissioner to do so.
- (iv) I will myself reside permanently in the village with the ryots.
- (v) I will perform such other duties as the Chief Commissioner may by rule from time to time prescribe.

I admit that a breach of any of these conditions will warrant my removal from the office of patel. If I am removed from the office of patel, I shall be liable to be ejected from all land held by me over and above the maximum area which is ordinarily allowed to ryots.

Signed _____

Dated _____

Countersigned _____

*Deputy Commissioner or
Assistant Settlement Officer.*

If an agent is allowed, this clause will be modified.

Register of Rice Land Villages granted under Resolution No. 5817, dated the 11th December 1893.

Name of village or plot with details of tract in which situated.	Area.	Name of lessee with date of original grant.	Amount fixed for expenditure on tanks, with details of period fixed.	Abstract of report as to construction of tanks with details of sum expended and date of report.	Date of	If watandari-pateli status granted, year up to which revenue remitted.	Year in which settlement operations should commence.
1	2	3	4	5	Grant of watandari pateli rights Resumption of lease on non-fulfilment of conditions.	8	9

58 *Central Provinces Land-revenue.* [ACT XVIII

(Part III—Of Survey and Settlement—Chapter V—Of the Assessment of Land-revenue—Section 6, G—67-I—Chapter VI—Of certain investigations by the Settlement Officer and the preparation of the Record-of-rights—Section 68.)

Provision of sections 55 and 56 applicable to ryotwari settlement. **167-G.** The provisions of sections 55 and 56 shall, so far as they can be made applicable, apply to ryotwari settlements made under this Act

Land-revenue now payable by ryots to be deemed to be fixed under this Act. **167-H.** The land-revenue payable at the commencement of the Central Provinces Land-revenue Act, 1889,² by ryots holding survey-numbers XVI in villages declared to be regularly settled ryotwari villages, shall be deemed to have been assessed under the provisions of this Act.

Ryots holding Government land not included in ryotwari villages. **167-I** Ryots who hold Government land not included in a regularly settled ryotwari village, and who are not tenants within the meaning of this Act, shall be liable for the payment of such land-revenue as may be assessed in accordance with rules made under this Act on the land held by them :

Provided that such a ryot shall not be compelled to pay revenue for land which he has vacated before the first day of April next before the commencement of the agricultural year, on account of which the claim for such revenue arises.

CHAPTER VI.

OF CERTAIN INVESTIGATIONS BY THE SETTLEMENT OFFICER AND THE PREPARATION OF THE RECORD-OF-RIGHTS.

Settlement Officer to ascertain proprietors. **68.** The Settlement Officer shall ascertain the persons who are in possession as proprietors of the land comprised in each mahal.

¹ These sections were inserted by section 18 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889) printed, Central Provinces Code, Edition 1891, page 278.

² Printed Central Provinces Code, Edition 1891, page 277.

(Part III—Of Survey and Settlements—Chapter VI—Of certain investigations by the Settlement Officer and the preparation of the Record-of-rights—Section 69.)

XI of 1898. 169. (1) The Settlement Officer shall ascertain and determine the extent of all the land which is held as *sir* land as defined in section 4-A, and which has not lost its character as *sir* land under the provisions of section 45 of the Central Provinces Tenancy Act, 1898, and shall record the same as *sir* land, <sup>Determina-
tion and re-
cord of *sir*
land,</sup>

(2) The Settlement Officer shall also record as *sir* land—

(a) land which is at the time of his inquiry cultivated by the proprietor, or one of the proprietors thereof, and has been continuously so cultivated for a period of not less than twelve consecutive years; and

(b) land which is at the time of his inquiry cultivated by the proprietor, or one of the proprietors thereof, and having been broken up from waste-land by such proprietor or one of such proprietors, has since been continuously cultivated by him for a period of not less than six years:

Provided that no land shall be recorded as *sir* land under this sub-section if the total area of *sir* land within the mahal already exceeds, or will by such record be made to exceed, one-quarter of the total occupied area of the mahal:

Provided, further, that the Settlement Officer may, with the previous sanction of the Commissioner, exempt any mahal or part thereof from this limitation in respect of land falling under clause (b) of this sub-section.

(3) When a part of such land as is referred to in sub-section (2) is excluded from the record of *sir* land under the proviso to that sub-section, the

¹The present sect on 69 was substituted by section 4 of the Central Provinces Land-revenue Act, 1898 (XII of 1898), for the section 69 inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 19, see Central Provinces Code, Edition 1891, page 279.

(Part III—Of Survey and Settlement—Chapter VI
—Of certain investigations by the Settlement
Officer and the preparation of the Record-of-
rights—Section 69.)

proprietor shall have the right to choose the particular fields which are to be excluded.

(4) An order or entry of the Settlement Officer recording, or omitting or refusing to record, any land as *sir* land under sub-section (1) shall be final, unless and until it is reversed or modified by the decree of a Civil Court in a suit instituted under section 83 at any time after the record is attested by the Settlement Officer, or his order regarding the entry is passed, and within one year after the settlement comes into effect; and an order or entry recording, or omitting or refusing to record, any land as *sir* land under sub-section (2) shall be final, unless and until it is reversed or modified on appeal or revision in accordance with the provisions of sections 22 to 26.

(5) The Settlement Officer shall, at the request of any proprietor, furnish him, free of cost, with a list of all the land which has been recorded as *sir* land under this section, and is situated within the mahal or patti owned wholly or partly by such proprietor.

(6) All land not falling within the purview of section 4-A, sub-section (1), shall be presumed, until the contrary is proved, not to be *sir* land.

Explanation.—For the purposes of the section the word “proprietor” shall be deemed to include an assignee of proprietary rights, but not a *malik-makbuza*.

Settlement
Officer to
decide dis-
putes among
share-holders
regarding
management
of mahal

70. The Settlement Officer shall ascertain the customs or rules by which the proprietors in each mahal are mutually bound as to the granting of pattas, the ejectment of tenants, the realization and distribution of rents and other profits, the payment of land-revenue, village expenses and other charges, and, generally as to the control and management of the mahal; and shall decide all disputes and record all agreements regarding the matters mentioned in this section.

(Part III—Of Survey and Settlements Chapter VI
—Of certain investigations by the Settlement
Officer and the preparation of the Record-of-
rights—Sections 71—74.)

71. The Settlement Officer shall determine through which of the lambardars or sub-lambardars the amount of revenue payable by each proprietor, sub-proprietor or malik-makbuza shall be paid.

To determine through what lambardars revenue shall be paid.

72. The Settlement Officer shall ascertain, and record for each mahal, the status of all tenants occupying land therein, the lands respectively held by them, the conditions on which they respectively hold such lands, and the rents (if any) payable by them, respectively.

To ascertain status and rents of tenants.

73. The Settlement Officer shall investigate all claims against the Government to hold land free from revenue, or at less than a full assessment, or to receive the whole or part of the land revenue assessed on land which is not free from revenue.

Enquiry into claims to hold free from revenue as against Government.

The Chief Commissioner may with the previous sanction of the Governor-General in Council, make rules determining the principles by which the Settlement Officer shall be guided in the disposal of claims coming under this section.

Power of Chief Commissioner to make rules.

74. When any land not being land which any person is entitled to hold free from revenue as against the Government is held by a proprietor, whether himself a malguzar or not who claims to hold it wholly or partially free from revenue as against the other malguzars of the mahal, the Settlement Officer shall decide whether the claimant is entitled to be exempted from paying the whole or any part of the revenue which would otherwise be payable in respect of such land, and if he decides that the claimant is so entitled, shall also determine the conditions under which, and the term for which, the claimant is entitled to such exemption:

Enquiry as to claims to hold free from revenue as against malguzars.

Provided that no decision under this section shall exempt any land from the payment of revenue, when the mahal in which such land is comprised is sold for arrears of revenue.

The Chief Commissioner may make rules for the guidance of Settlement Officers in dealing with cases under this section.

Chief Commissioner may make rules for disposal of such cases.

(Part III Of Survey and Settlement—Chapter VI—Of certain investigations by the Settlement Officer and the preparation of the Record-of-rights—Sections 75—77.)

Time from which orders under sections 73 and 74 take effect.

75. When the Settlement Officer decides under section 73 or section 74, that land which has been held free from revenue, or at less than a full assessment, is liable to pay revenue, or to pay the same at enhanced rates, such decision shall take effect from the first day of the agricultural year next ensuing; unless the Chief Commissioner directs that the amount payable in respect of such land on account of the revenue accruing due within any one or more of the last preceding twelve years shall be realized.

Settlement Officer to decide what village cesses are leviable

76. The Settlement Officer shall determine and record the village cesses, if any, which are leviable in accordance with village custom, and the persons by and from whom, and the rates at which, they are leviable; and such cesses shall, if sanctioned by the Chief Commissioner, be leviable accordingly.

to determine certain disputes.

77. The Settlement Officer may determine disputes regarding any of the following matters (namely):—

- (a) the right of any lambardar, mukaddam, village-watchman or other village-servant to any customary dues or other remuneration, and his liability to render any customary service in return for such dues or remuneration;
- (b) the rights of persons resident in the village, or holding lands comprised in the mahal, in or to the common land of the mahal and its produce, and the village-site;
- (c) any customs relating to irrigation or to rights-of-way and other easements;
- (d) any other rights and customs which the Chief Commissioner directs to be recorded in the administration paper.

(Part III—Of Survey and Settlement—Chapter VI
—Of certain investigations by the Settlement
Officer and the preparation of the Record-
of-rights—Sections 78—82.)

78. If a dispute arises regarding any matter mentioned or referred to in sections 68, 69¹ sub-section (1), 70, 72 and 77, clauses (b), (c) and (d), the Settlement Officer shall decide it summarily after making such enquiry as he thinks fit, and shall not be bound to hear any party to such dispute, or to receive any evidence tendered by any such party; but in the case of every such dispute he shall record a proceeding stating the nature of such dispute, his decision thereon, the grounds of such decision, and such other particulars as he thinks fit.

Procedure in cases under sections 68, 69, 70, 72 and 77, clauses (b), (c) and (d).

79. The Settlement Officer shall prepare for every mahal, or, if he thinks fit, for any group of neighbouring mahals, a record-of-rights, and shall include in it —

Record-of-rights.

(a) the results of the enquiries made under this chapter in respect of such mahal or group; and

(b) any other matters which the Chief Commissioner may, by rules in this behalf, direct to be entered in such paper.

80. The Chief Commissioner may make rules prescribing the language in which the record-of-rights shall be drawn up, the form of the papers of which it shall consist, and the manner in which such papers shall be signed and attested by the Settlement Officer and the parties interested in the matters to which they refer.

Chief Commissioner may make rules regarding record-of-rights.

81. When the Settlement Officer has completed a record-of-rights in manner hereinbefore prescribed he shall, subject to any order issued by the Chief Commissioner in this behalf, make it over to the Deputy Commissioner for custody.

Record-of-rights to be made over to Deputy Commissioner.

82. When the record-of-rights is duly made and attested, all entries therein shall be presumed to be correct until the contrary is shown.

Effect of entries in record-of-rights.

¹ This word and figure were inserted by section 5 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

*(Part III—Of Survey and Settlement—Chapter VI
—Of certain investigations by the Settlement
Officer and the preparation of the Record-
of-rights—Sections 83—85.)*

Suits to con-
test certain
settlement
decisions or
entries.

83. Any person deeming himself aggrieved by any decision under section 78, or by any decision of the Chief Settlement Officer in appeal therefrom, or by any entry made in the record-of-rights as to any matter referred to in that section, may institute a suit in the Civil Court to have such decision set aside or such entry cancelled or amended :

Provided as follows :—

when any suit under this section is instituted for the cancellation or amendment of an entry, the Government, if it so desires, and all persons interested in the entry, shall be made parties to the suit :

no persons by whom the record-of-rights was signed, and no persons claiming through or under them, shall without the previous sanction of the Chief Commissioner, institute any suit with a view to modify or set aside any entry relating to any matter mentioned in section 70 or section 77, clause (b), (c) or (d).

Revision of
record-of-
rights by
Chief Com-
missioner.

84. After an assessment has been confirmed by the Governor-General in Council, the Chief Commissioner shall not exercise, in respect of any entry of the descriptions referred to in section 83 duly made in a record-of-rights prepared in connection with such assessment and duly attested, the power of revision conferred by sections 25 and 31, unless it is proved that such entry was made inadvertently.

Proceedings
regarding
lands the pro-
perty of Gov-
ernment.

85. In respect of lands declared to be the property of Government, the Settlement Officer shall, instead of proceeding as hereinbefore provided, conduct such operations, and prepare such record, as the Chief Commissioner may direct.

(Part III—Of Survey and Settlement—Chapter VII
Of Settlement made before this Act comes into
force—Sections 86—88.)

CHAPTER VII.

OF SETTLEMENTS MADE BEFORE THIS ACT COMES INTO FORCE.

86. Settlements made before this Act comes into force shall be deemed, so far as may be, to have been made hereunder ; and the provisions of this Act in regard to proceedings taken and records prepared by Settlement Officers in the making of settlements hereunder shall apply in like manner to proceedings taken and records prepared before this Act comes into force.

Former settlements deemed to have been made under this Act.

87. When a Settlement Officer or Settlement Court has, at any settlement made before this Act comes into force, made an award of proprietary rights in any land, all claims, which after consideration by such Officer or Court may have been expressly decided by him or it to be invalid, or inferior to the claims of the persons in whose favour the award was made, shall be barred both as against Government and as against the persons last mentioned ; and no suit shall lie for the enforcement of such claims in any Civil Court.

Effect of awards of proprietary rights at such settlements.

The award at any such settlement of proprietary rights in land to a widow shall be deemed to confer on her those rights only which, in accordance with the personal law to which she is subject, she would enjoy in land inherited by her from her husband.

88. Any person whose claim to proprietary rights in any land was not expressly decided by such Officer or Court may sue in a Civil Court to establish such claim ; and, if he can prove that, when proprietary rights in such land were awarded by such Officer or Court to other persons, he was intitled to interest therein of the same nature as those upon consideration of which the award was made, the Civil Court may declare him entitled to a proprietary right of such nature and extent in the land as it may deem just.

When suits for proprietary rights will lie in Civil Courts.

66 *Central Provinces Land-revenue.* [ACT XVIII,

(Part III—Of Survey and Settlement—Chapter VII—Of Settlement made before this Act comes into force—Section 89. Part IV—Of Revenue Administration—Chapter VIII.—Of the collection of Land-revenue—Section 90.)

Chief Commissioner may allot waste land to malik-makbuzas entitled thereto.

89. When at any settlement made before this Act comes into force malik-makbuzas have been declared entitled to a portion of the waste lands comprised in any mahal, the Chief Commissioner may, notwithstanding anything contained in the record of such settlement, prescribe the extent of such portion and the mode in which the same shall be assigned to them; and may determine the nature and extent of their interests therein and the conditions on which they may hold it.

PART IV.

OF REVENUE ADMINISTRATION.

CHAPTER VIII.

OF THE COLLECTION OF LAND-REVENUE.

Power of Chief Commissioner to regulate payment of land-revenue.

90. Notwithstanding anything contained in the record-of-rights of any village, the Chief Commissioner may fix the number and amount of the instalments, and the times, places and manner at and in which land-revenue, whether payable direct to the Government or not, shall be paid.

Until the Chief Commissioner otherwise directs, all such payments shall be made on the dates, in the instalments, in the manner and at the places on, in and at which they are payable when this Act comes into force.

(Part IV—Of Revenue Administration—Chapter
VIII—Of the Collection of Land-revenue—
Section 90.)

1.—The instalments of land-revenue payable direct to Government shall be paid in the various districts of the Province on the dates noted below :—

For malguzari and Zamindari villages.

	First kist.	Second kist.	
<i>Jubbulpore Division—</i>			
Jubbulpore, Saugor ... and Damoh.	15th January	15th May.	Notification No. 5170, dated the 21st November 1894, as amended by Notification No. 4044, dated the 12th August 1901, and Notification No. 5395, dated the 23rd September 1902.
Mandla ...	1st March	1st June.	
Seoni ...	1st February	Do.	Notification No. 1143, dated the 14th March 1903, and Notification No. 3464, dated the 7th August 1903.
<i>Nerbudda Division—</i>			
Narsinghpur, Chhindwara and Nimar.	1st February	15th May.	
Betul ...	Do.	1st June.	
Hoshangabad ...	15th January	15th May.	
<i>Nagpur Division—</i>			
Nagpur and Wardha ...	10th February	1st May.	
Balaghat ...	Do.	15th May.	
Chanda District—			
Warora Tahsil ...	10th February	1st May.	
Other Tahsils ...	Do.	15th May.	
Bhandara District—			
Bhandara Tahsil ...	10th February	1st May.	
Other Tahsils ...	Do.	15th May.	
<i>Chhattisgarh Division—</i>			
Raipur and Bilaspur ...	15th February	15th May.	
Sambalpur ...	Do.	1st May.	

For regularly settled ryotwari villages.

Jubbulpore Division—

Mandla	...	15th February	...	1st May.
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In other districts one month prior to the date fixed for the payment of each kist of land-revenue in malguzari villages in the same district.

II.—The instalments shall be those laid down in the settlement records.

III.—All payments shall ordinarily be made at the headquarters of the tahsil to the Tahsildar or to such subordinate officer as he, with the sanction of the Deputy Commissioner, may appoint to receive it. They may, however, if the payer finds it more convenient, be made direct into the Sadar Treasury to the officer in charge of that treasury.

IV.—The revenue payable by malik-makbuzas to malguzars shall be paid one month before the date on which the corresponding instalment of land-revenue is due to Government.

(*Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Sections 91 & 91-A.*)

Arrear defaulters.

91. When any sum payable under a settlement or sub-settlement ¹[or otherwise under an assessment made in accordance with this Act] is not paid within the time at which it is payable under section 90, such sum shall be deemed to be an arrear, and all the persons with whom such settlement or sub-settlement ²(or such assessment) was made, their representatives and assigns, shall thereupon become jointly and severally liable for it, and shall be deemed to be defaulters within the meaning of this Act.

²*Explanation.*—The term “assigns” in this section includes a mortgagee in possession and a thekadar.

Avoidance of attachments and executions which forestall land-revenue.

³91-A. Without the previous consent of the Deputy Commissioner or of such officer, not being below the rank of Tahsildar, as he may appoint in this behalf, the rents and profits of a mahal or malik-makbuza holding and the produce of a survey-number shall not be liable to be attached or taken in execution of a decree or order of any Court until the land-revenue chargeable against such rents, profits or produce, and any arrear due in respect of the mahal, holding or survey-number, have been paid.

NOTE.—Section 91-A enables the Deputy Commissioner to ensure that the rents and profits of a mahal or malik-makbuza holding, and the produce of a survey-number, are not attached by creditors so long as land-revenue is due on the mahal, holding or survey-number. The law already existing made the land-revenue the first charge on the land in the case of transferable property, but it did not enable the Deputy Commissioner to recover it from rents and profits which were attached by creditors. The defect has been remedied, and the inclusion of the produce of a survey-number also within the scope of the section should greatly facilitate the prompt collection of land-revenue in ryotwari villages.

¹ These words were inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 21, printed, Central Provinces Code, Edition 1891, page 279.

² This *Explanation* was inserted by section 6 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

³ Section 91-A was inserted by section 7 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

(Part IV—Of Revenue Administration—Chapter
VIII—Of the Collection of Land-revenue—
Sections 92—94.)*Realization of Revenue from Malguzars.*

92. A statement of account, authenticated by the signature of the Tahsildar shall, for the purposes of this chapter, be conclusive evidence of the existence of any arrear payable direct to the Government of its amount, and of the persons who in respect thereof are defaulters¹.

Tahsildar's
statement of
account to be
conclusive
evidence of
arrear.

93. The Deputy Commissioner or any officer empowered by him in this behalf may, if he thinks fit, before any of the processes hereinafter referred to are issued for the recovery for such an arrear, cause a notice of demand to be served on any of the defaulters.

Notice of de-
mand.

94. An arrear payable directly to Government may be recovered by any one or more of the following processes:—

Processes for
recovery of
arrears.

- (a) by arresting the defaulter and imprisoning him in the civil jail;
- (b) by attaching and selling his moveable property;
- (c) by attaching the mahal in respect of which the arrear has accrued or the share or land of any malguzar who has not paid the portion of the revenue which, as between him and the other malguzars, is payable by him, and taking the same mahal, share or land under direct management;
- (d) by transferring the share or land of any malguzar who has not paid such portion to any malguzar who has paid the same or, if every such malguzar declines to accept such share or land, to any person having a mortgage or charge upon the same, and who consents to accept it;
- (e) by annulling the settlement of the mahal in respect of which the arrear has accrued and taking such mahal under direct management or farming the same;

¹ But see section 114, *infra*, page 105, as to payment under protest.

(Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Section 95.)

- (f) by selling such mahal, or the share or land of any malguzar who has not paid the portion of the revenue aforesaid;
- (g) by selling immoveable property belonging to the defaulter other than the land in respect of which the arrear has accrued;
- (h) in the case of ryot who has accepted the assessment of survey-number, by ejecting him from his holding:

Provided as follows:—

- (1) the process mentioned in clause (a) shall not be issued against any female, minor lunatic or idiot;
- (2) the processes mentioned in clauses (d), (e), (f) and (g) shall not be enforced without the previous sanction of the Chief Commissioner;
- (3) no land shall be sold, and the settlement of no land shall be annulled, on account of an arrear accruing in respect of land whilst it is under attachment, or under charge of the Superintendent of Government Wards, or held under direct management, or let in farm in accordance with any of the provisions of this Act.

The processes specified in clauses (a), (b) and (c) may be enforced either in the district in which the default has been made, or in any other district.²

Arrest and imprisonment for recovery of arrear.

95. The process mentioned in section 94, clause (a), may be executed by issuing a warrant directing the officer named therein, if the defaulter fails to pay the arrear by a date to be fixed in the warrant, to bring him to the tahsil.

¹ Clause (h) was inserted by the Central Provinces Land-revenue Act, 1889, XVI of 1889, section 20, printed, Central Provinces Code, Edition 1881, page 279.

² As to procedure for enforcement in another district, see the Revenue Recovery Act, I of 1890, printed, General Acts, Volume V, Edition 1898.

(Part IV—Of Revenue Administration—Chapter
VIII—Of the Collection of Land-revenue—
Sections 96—99.)

If, when the defaulter arrives at the tahsil, the arrear is still unpaid, the Tahsildar may order him to be taken before the Deputy Commissioner, or may keep him under personal restraint at the tahsil for a period not exceeding ten days, unless within such period the arrear is paid, and may then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

96. If the arrear is not paid when the defaulter arrives before the Deputy Commissioner, the Deputy Commissioner, may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in such jail, for such period, not exceeding three months from the date of the order, as the Deputy Commissioner may think fit, unless within such period the arrear is paid.

Imprisonment of defaulter in civil jail.

97. Attachments and sales of moveable property made under this chapter shall be conducted as nearly as may be according to the law for the time being in force for the attachment and sale of moveable property under the decree of a Civil Court.

Procedure in sales of moveable property.

98. After causing any attachment to be made under section 94, clause (c), the Deputy Commissioner shall issue a proclamation declaring the attachment to be in force, and shall take the attached mahal, share or land under his own management, or place it under the management of any agent whom he may appoint for the purpose.

Management of mahal, share or land attached under section 94 (c).

99. During the continuance of an attachment under section 98, the defaulters shall be excluded from possession of the land attached, and the Deputy Commissioner or the agent appointed by him shall have all their rights to manage the land and to realize the rents and profits arising therefrom, and

Effect of attachment.

1 See Act XIV of 1882, Chapter XIX, printed, General Acts, Volume IV, page 262.

(Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Section 109.)

be used for the purposes specified in such leases respectively ; or

- (c) deprive any defaulter whose property is sold of the rights in respect to his *sir* land conferred by any law for the time being in force.

The Chief Commissioner may, from time to time, determine what rents shall be deemed to be fair rents within the meaning of this section.

109. When immoveable property is sold under this Act, the rules prescribed in sections 287, 288, 293 and 306 to 316, both inclusive, of the Code of Civil Procedure¹ shall be followed, except in the following particulars (that is to say) :—

Rules for sale of immoveable property

- (a) the defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and on such payment the sale shall be stayed ;
- (b) the proclamation directed by the said section 287¹ shall, when the sale is under clause (f), section 94, of this Act, declare that, subject to the provisions of section 108, the full proprietorship, or superior or inferior proprietorship, as the case may be, is to be sold free from all leases, liens and other incumbrances, and the certificate mentioned in section 316 of the said Code¹ shall contain a similar statement ;
- (c) the last two clauses of the said section 287¹ shall not apply ;
- (d) an appeal from any order under section 312 of the said Code¹ for confirming or setting aside the sale shall lie to the

¹ See now the Code of Civil Procedure (Act XIV of 1882), printed, General Acts, Volume IV, Edition 1898, page 262.

(*Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Sections 100—103.*)

shall be bound by all their liabilities as malguzars or proprietors to any subordinate proprietars or tenants of such land.

Profits of
land how
applied.

100. The surplus profits of such lands, after defraying the cost of attachment and management, shall be applied, first, to the payment of any revenue becoming due in respect of such land during the attachment, and next, to discharging the arrear for the recovery of which the attachment was made.

Attachment
when to cease.

101. The attachment shall continue until the arrear is paid or realized from the profits of the land attached, or the Deputy Commissioner reinstates the defaulters in possession :

Provided that no attachment shall continue beyond five years from the first day of the agricultural year next following its commencement.

Transfer
under section
94 (d).

102. When it is proposed to execute the process mentioned in section 94, clause (d), the persons to whom the share or land in respect of which the arrear is due is to be transferred shall be required to pay such arrear, or to secure its payment to the satisfaction of the Deputy Commissioner.

No such transfer shall be made for a term exceeding fifteen years from the first day of the agricultural year next after the date on which it is sanctioned by the Chief Commissioner.

Joint and
several liabi-
lity not affect-
ed by transfer.

No proceedings taken under this section shall affect the joint and several liability of the malguzars of the mahal for arrears, accruing in respect of such mahal subsequently to the transfer of the share or land except that, as regards all such arrears, the transferee shall stand in the place of the malguzar whose share or land is transferred.

Procedure
after receipt
of sanction
to annulment
of settlement.

103. When the Chief Commissioner sanctions the annulment of the settlement of any mahal, the Deputy Commissioner shall proclaim such annulment,

(Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Sections 104—106.)

and may then exclude the defaulters from the possession of the mahal, and either manage the mahal or any portion thereof himself or through an agent, or let the mahal or any portion thereof in farm for such term and on such conditions as the Chief Commissioner directs:

Provided that no management or farm under this section shall continue for a longer period than fifteen years from the first day of the agricultural year next after the proclamation of annulment of settlement.

After the date of such proclamation no liabilities shall accrue under the settlement so annulled; but such annulment shall not affect anything done or any liability incurred under the settlement before such date.

104. When a portion only of the mahal is managed or let in farm under section 103, the rest of such mahal shall be separately re-settled with the proprietors thereof for the remainder of the term of settlement. Case of a portion of a mahal being managed or farmed.

105. As soon as the management or farm of mahal or any portion thereof has come to an end, the Deputy Commissioner shall offer to the persons entitled under section 49 to an offer of assessment a new assessment of the land, on such conditions as the Chief Commissioner may direct, for the remainder of the term of the settlement of the mahal; and, if such offer is refused, may, with the previous sanction of the Chief Commissioner, let such mahal or portion in farm for the remainder of the term of settlement to some other persons, or manage it himself or through an agent for such period. Settlement on expiry of management or farm.

106. No leases, liens or other incumbrances created by the defaulters or by any person through or under whom they claim, of or upon any land managed or let in farm under this Act, shall, during Effect of annulment of settlement.

(*Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Sections 107 & 108*).

such management or farm, be binding upon the Deputy Commissioner or Settlement Officer, his agent or lessee.

Saving of
rights in
land.

107. No defaulter shall be deprived of the possession of his *sir* land in the execution of any of the processes mentioned in section 94, clauses (c), (d) and (e); but every such defaulter shall, while such process is being enforced, be entitled to retain possession of and liable to pay rent for such land as if he were an absolute-occupancy tenant, at such rent as may be fixed by the Deputy Commissioner.

Nature of
estate taken
by purchaser
of land sold
for arrears
due thereon.

108. Unless the Chief Commissioner in sanctioning the sale otherwise directs, a purchaser of any land sold for arrears of revenue due in respect thereof acquires the full proprietorship or superior or inferior proprietorship of it, as the case may be, free of all leases, liens and other incumbrances; and all grants or contracts previously made by any person other than the purchaser in respect of such land shall become void as against such purchaser.

Nothing in this sections shall :—

(a) affect the rights of any proprietor, superior or inferior to the defaulters, or of any malik-makbuza or occupancy-tenant, who does not derive his rights as such proprietor, malik-makbuza or tenant, from express contract with such defaulters, or any person through whom they claim; or

(b) apply to lands held under leases at fair rents for the erection thereon of dwelling houses, places of worship or manufactories or for working mines, minerals, coals and quarries, or for laying out and maintaining gardens and burial-grounds, or for constructing tanks and canals, so long as the lands continue to

(Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Section 109.)

- be used for the purposes specified in such leases respectively ; or
- (c) deprive any defaulter whose property is sold of the rights in respect to his *sir* land conferred by any law for the time being in force.

The Chief Commissioner may, from time to time, determine what rents shall be deemed to be fair rents within the meaning of this section.

109. When immoveable property is sold under this Act, the rules prescribed in sections 287, 288, 293 and 306 to 316, both inclusive, of the Code of Civil Procedure¹ shall be followed, except in the following particulars (that is to say) :—

Rules for
sale of
immoveable
property

- (a) the defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and on such payment the sale shall be stayed ;
- (b) the proclamation directed by the said section 287¹ shall, when the sale is under clause (f), section 94, of this Act, declare that, subject to the provisions of section 108, the full proprietorship, or superior or inferior proprietorship, as the case may be, is to be sold free from all leases, liens and other incumbrances, and the certificate mentioned in section 316 of the said Code¹ shall contain a similar statement ;
- (c) the last two clauses of the said section 287¹ shall not apply ;
- (d) an appeal from any order under section 312 of the aid Code¹ for confirming or setting aside the sale shall lie to the

¹ See now the Code of Civil Procedure (Act XIV of 1882), printed, General Acts, Volume IV, Edition 1898; page 262.

(*Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Section 110.*)

Commissioner of the Division, and an appeal from the Commissioner's order on such appeal shall lie to the Chief Commissioner ;

(*e*) the Deputy Commissioner may, from time to time, postpone any sale which he has proclaimed, reporting such postponement to the Commissioner of the Division ;

(*f*) section 309 of the said Code¹ shall be read as if after the words "for such payment" the words "and every sale of such property made after a postponement" were added ;

(*g*) section 313 of the said Code¹ shall not apply to sales under section 94, clause (*f*), of this Act ;

(*h*) section 316 of the said Code¹ shall be read as if the words "The Deputy Commissioner shall place the purchaser in possession of the lands which he has purchased" were added thereto.

Pre-emption
at sales.

(110). In the course of a sale under section 94, clause (*f*), if the property is knocked down to a stranger, the following persons may claim to take it at the sum last bid in the following order :—

(*a*) any malguzar who has paid the revenue which, as between him and the other malguzars, is payable by him ;

(*b*) if the superior proprietorship is sold, the inferior proprietor ;

(*c*) if the inferior proprietorship is sold, the superior proprietor :

Provided that such claim is made before the officer conducting the sale closes the sitting at

¹ See now the Code of Civil Procedure (Act XIV of 1882), printed, General Acts, Volume VI, Edition 1898, page 262.

(Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Sections 111—113.)

which the sale is held, and that the claimant undertakes to fulfil all the conditions of the sale binding on the purchaser.

III. The proceeds of every sale in execution of any process mentioned in section 94 shall be applied, first, in satisfaction of the arrear on account of which the sale was held and of the expenses of such sale; secondly, to the payment of any other arrear due to Government by the defaulter; and the surplus, if any, shall then be payable to him, or, where there are more defaulters than one, to such defaulters according to their respective shares in the property sold.

Application of proceeds of sale of immoveable property.

II2. The costs of serving a notice of demand under section 93 and of enforcing any process mentioned in section 94 shall be recoverable as part of the arrear in respect of which the notice was served and the process was issued.

Costs recoverable as part of arrear.

II3. The Chief Commissioner may make rules:—

Matters as to which Chief Commissioner may make rules.

- (a) for the guidance of Revenue Officers in issuing notices of demand under section 93 and executing the processes mentioned in section 94;
- (b) defining the classes of officers by whom the processes mentioned in section 94, clauses (a) and (b), may be enforced;
- (c) prescribing the agency by which any of the processes issued under section 94 shall be executed.

A.—Notices of Demand.

I.—A notice of demand may be issued whenever there is reason to believe that its issue will secure the payment of the arrear. In no case shall a notice of demand be issued with the object of punishing or fining a defaulter.

Notification No. 6141, of 19th November 1894, as amended by Notification No. 4236, dated the 22nd September 1899.

II.—No notice of demand shall issue until an arrear has actually accrued, that is to say, until the day succeeding that on which the demand was payable.

(*Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Section 113.*)

III.—When there are more defaulters than one in a mahal, a single notice of demand may be issued against the whole collectively; and when the same person is a defaulter in respect of more than one mahal, a single notice of demand may issue for the amount due on those mahals, provided that they are situated within the same tahsil.

IV.—Notices of demand shall issue in duplicate in the following form, and shall be signed by the officer issuing them :—

Serial No.	Mahal.	Date of issue.	Amount of instalment.	Paid.	Unpaid.	Process fees.	Total due. Total of columns 6 and 7.	Name of server.	Date of service.	Date of server's return.
1	2	3	4	5	6	7	8	9	10	11

The provisions with regard to the service of summons contained in the Code of Civil Procedure shall apply as far as may be to the service of notice under this rule.

V.—The serving officer shall enter the date and particulars of the mode of service on the copy of the notice which is retained by him. This copy shall then be returned to the officer who issued it, and shall be filed for record.

VI.—A notice of demand may, in the discretion of the officer issuing it, be sent by registered letter, in which case it need not be sent in duplicate, and columns 9, 10 and 11 of the notice will be left blank.

VII.—Notices of demand issued by an officer other than the Tahsildar or Naib-Tahsildar of the tahsil in which the land in respect of which the arrear accrued is situated, shall, unless they are sent by post, be forwarded for service to that Tahsildar.

VIII.—The fee charged for a notice of demand shall be 6 annas if sent by post and 12 annas if sent by a server or chaprasi. This fee shall, at the time of issue of the notice from the tahsil, be added to the original arrear by special entry both in column 7 of the notice of demand and in the tahsil khationi of land-revenue demands and receipts.

(Part IV—Of Revenue Administration—Chapter
VIII—Of the Collection of Land-revenue—
Section 113.)

If an arrear be paid into the treasury after the notice of demand concerning it has been filled up, but before it has been actually issued from the tahsil for service, the notice shall be cancelled and no charge made.

IX.—Servers and Revenue chaprasis employed in serving notices of demand are prohibited from receiving any arrear of Government revenue for the purpose of paying it into the tahsil and from collecting any fees for the issue of notices.

B.—Class of officers by whom processes may be issued.

X.—All processes for the arrest of defaulters or for the attachment or sale of their moveable property shall be issued by the Deputy Commissioner or by an Assistant Commissioner specially empowered in this behalf by the Chief Commissioner.

The Deputy Commissioner may delegate the power of issuing a warrant of arrest or attachment of moveable property to a Tahsildar, provided that no defaulter shall be confined in the Civil Jail and no property brought to sale without the previous sanction of the Deputy Commissioner.

C.—Arrest and imprisonment [section 94 (a)].

XI.—Although in case of default all and each of the co-sharers in a mahal are jointly and severally responsible, the process mentioned in section 94 (a) and section 95 shall ordinarily be enforced only against the Lambardars, unless there are reasonable grounds for believing that any other sharer in the mahal is an actual defaulter in his own person, that is to say, has not paid his share of the land-revenue, and has appropriated the rents or produce from which the share should have been paid.

XII.—Every warrant of arrest shall be in Form I appended.

XIII.—All orders passed by the Tahsildar regarding the disposal of the defaulter after his arrival at the tahsil shall be recorded on the back of the warrant or on a paper attached to it.

XIV.—A defaulter under arrest shall be released if he gives adequate security for the payment of the arrears within such time as the Tahsildar, or if he has been forwarded from the tahsil, the Deputy Commissioner, or Assistant Commissioner specially empowered under rules issued under section 113 (b) of the Central Provinces Land-revenue Act, may fix.

*(Part IV—Of Revenue Administration—Chapter
VIII—Of the Collection of Land-revenue—
Section 113.)*

XV.—An order of imprisonment under section 96 shall be in Form II appended. Subsistence money shall be allowed at the rate for the time being in force for civil debtors.

D.—Attachment and sale of moveable property
[section 94 (b)].

XVI.—The provisions of Rule XI shall apply to the attachment and sale of moveable property.

Every warrant for the attachment of moveable property shall be in Form VIII appended. Revenue chappassis employed in executing warrants of attachment are prohibited from receiving any arrear of Government revenue and from collecting any fees or costs on account of the attachment.

E.—Attachment of mahal or share of mahal
[section 94 (c)].

XVII.—When a mahal or share is ordered to be attached under section 94 (c) proclamation shall issue in Form III hereunto appended.

F.—Annulment of Settlement [section 94 (c)].

XVIII.—When it has been decided to annul the settlement of a mahal, a proclamation shall issue in Form IV hereunto appended.

XIX.—When a mahal the settlement of which has been annulled is let on farm, the engagement of the farmer shall, unless the Financial Commissioner shall otherwise direct, be in Form VII appended. Any modifications of, or additions to, the provisions specified in this form, which may in particular cases be deemed necessary, shall be submitted to the Financial Commissioner for his approval.

G.—Sale of a mahal for arrears of revenue due thereon
[section 94 (f)].

XX.—When a Deputy Commissioner decides to apply to the Financial Commissioner for permission to sell a mahal for arrears of revenue due thereon, he shall, before submitting his application, make enquiry regarding the matters mentioned in clauses (a), (b), (c) of section 108, and shall include the result of his enquiry in his application.

XXI.—When sanction to sale has been received, a proclamation shall issue in Form V appended.

XXII.—All sales shall be by public auction.

(Part IV—Of Revenue Administration—Chapter
VI.—Of the Collection of Land-revenue—
Rules under Section 113.)

H.—Sale of immoveable property other than that on which an arrear has accrued [Section 94 (g)].

XXIII.—When a Deputy Commissioner proposes to resort to the process specified in Section 94 (g), he shall, in the first instance, apply to the Financial Commissioner for leave to sell the immoveable property against which he intends to proceed, and shall in his application give such information as he has been able to obtain regarding the interest of the defaulter therein, the incumbrances if any thereon, and the sum likely to be realized by sale.

XXIV.—Having received sanction, the Deputy Commissioner shall, if sale is to be enforced, issue a proclamation in Form VI hereunto appended.

XXV.—If after he has received sanction to sell, the Deputy Commissioner obtains information whether through objections to the attachment or otherwise, which ought, in his opinion, to be submitted to the Financial Commissioner, he shall make a further report, postponing sale, if necessary.

XXVI.—If the immoveable property to be proceeded against under Section 94 (g) lies in a district other than that in which the arrear accrued, the Deputy Commissioner of that district shall issue process on the motion of the Deputy Commissioner of the district in which the arrear accrued.

I.—General.

XXVII.—All references or applications made under these rules to the Financial Commissioner shall be made by the Deputy Commissioner through the Commissioner, who shall submit them after such further inquiry, if any, as he may think fit to direct.

XXVIII.—All processes issued under Chapter VIII shall be executed as far as possible by the fixed establishment of Revenue chaprassis attached to the tahsil. But on occasions of pressure, the number of such chaprassis may be supplemented by the temporary appointment of extra peons in such numbers and for such periods as may be necessary, under the Deputy Commissioner's orders, at any time within such periods of the year, not exceeding six months in all, as the Commissioner may prescribe for each tahsil and at other times with the Commissioner's sanction.

(Part IV—Of Revenue Administration—Chapter
VIII—Of the Collection of Land-revenue—
Rules under Section 113.)

FORM I.

Warrant of arrest of revenue defaulter.

From

The Deputy Commissioner [or other officer em-
powered under Section 113.(b)].

To

[Name and office of the person charged with exe-
cution of the warrant.]

On account of (descriptive entries Whereas _____, son of _____,
of mahal, share, or land) caste _____, resident of _____,
For kist payable on the _____ 190 _____ has made default in payment
Amount payable ... Rs. _____
" paid " _____ of Rs. _____, on account of
" balance " _____ land-revenue, due by him as
Add costs " _____ per margin.
Total to be recovered " _____

Unless he shall satisfy the above claim "by payment
at a Government Treasury or by remittance through the
Post Office," on or before _____ you are to arrest
and take him to the tahsil office at _____ there to be dealt
with according to law.

Given under my hand and the seal of this office, this
_____ day of _____ 19 _____

Deputy Commissioner.

FORM II.

Warrant to confine revenue defaulter in Civil Jail at—

From

The Deputy Commissioner (or Assistant Commis-
sioner specially empowered)

To

The Officer in charge of the Civil Jail at _____.

Whereas _____, son of _____, caste _____,
_____, resident of _____, has been arrested for default
in payment of the sum of Rs. _____, being arrears of
land-revenue due by him together with costs;

And whereas the said _____ has been brought be-
fore me and has not paid the above sum (or has paid Rs. _____
and the sum of Rs. _____ is still due).

You are hereby directed to receive the said _____
into the Civil Jail of this district and to confine him there
for a period of _____ unless the above sum be paid to
you within that period, or the imprisonment be stayed by
order from this office.

The allowance for subsistence of the defaulter during
his imprisonment has been fixed at the rate of Rs. _____
a month.

Deputy Commissioner.

(Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Rules under Section 113.)

FORM III.

Proclamation of attachment of mahal, share or land for recovery of arrears of land-revenue under section 94 (c) of the Land-revenue Act.

Whereas the mahal* described in the following schedule has been attached under Section 94 of the Central Provinces Land-revenue Act, 1881, for the recovery of Rs. _____ on account of land-revenue and costs due from the defaulters named in the schedule;

Proclamation is hereby made that, during continuance of the attachment, these defaulters are, under Section 99 of the aforesaid Act, excluded from the possession of the mahal * and the agent appointed by the Deputy Commissioner shall have all their rights to manage the mahal and to realize the rents and profits arising therefrom, and shall be bound by all their liabilities as malguzars or proprietors to any subordinate proprietors or tenants in such mahal. *

Also under Section 156 of the same Act, all sums due to the defaulters in respect of the attached mahal * are now payable only to the Deputy Commissioner or his agent. No payment made before this attachment to the defaulters in anticipation of the usual period for such payment shall, without the sanction of the Deputy Commissioner, be credited to the person making the same in account with the Deputy Commissioner or his agent.

Issued under my hand and the seal of this office this _____ day of _____ 19 .

Deputy Commissioner.

SCHEDULE.

Tahsil.	Mahal.			Name, father's name and caste of each defaulter.	Share in the mahal or other description of the attached land of each defaulter.
	No.	Name.	Annual Government demand.		

* Where an entire mahal is not to be attached, the words "share of the mahal" or "the land" can be entered instead.

(*Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Rules under Section 113.*)

FORM IV.

Proclamation of annulment of settlement

Proclamation is hereby made that, with the sanction of the Financial Commissioner, the settlement of the mahal described in the following schedule is annulled on account of arrears of land-revenue due thereon.

The annulment will have effect from the _____

Notice is hereby given that all sums due to proprietors are now payable only to the Deputy Commissioner or his agent or lesser.

Issued under my hand and the seal of this office this _____ day of _____ 19 .

Deputy Commissioner.

SCHEDULE.

Tahsil.	Mahal.			Name, father's name, caste and share of each defaulter.
	No.	Name.	Annual Government demand under the settlement annulled.	

FORM V.

Proclamation of sale of land for arrears of revenue due in respect thereof.

Whereas the Financial Commissioner has sanctioned sale of the property described in the following schedule for recovery of Rs. _____, being arrears of land-revenue due in respect thereof, plus costs :

*(Part IV—Of Revenue Administration—Chapter
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Rules under Section 113.)*

Proclamation is hereby made that, unless the arrear be paid before the day herein fixed for sale or the sale be postponed by the Deputy Commissioner, the said property will be sold by public auction at the office of the Deputy Commissioner at _____ on the _____ day of _____ 19____, at or about _____ o'clock.

Subject to the provisions of Section 108 of the Central Provinces Land revenue Act, the _____ proprietorship* of the said land is to be sold free of all liens, leases and incumbrances, and all grants or contracts previously made by any person other than the purchaser in respect of such land shall become void as against the purchaser.

Issued under my hand and the seal of this office this _____ day of _____ 19____.

Deputy Commissioner.

SCHEDULE.

Tahsil.	Mahal.			Property exempt under Section 108 so far as known.	Other property specially exempted by Financial Commissioner under the same section.
	No.	Name and description.	Annual jama.		

FORM VI.

Proclamation of sale of land for arrears of revenue due on other land in the property of the same owner.

Whereas the Financial Commissioner has sanctioned sale of the property described in the following schedule for the recovery of the sum of Rs. _____, being arrears of land-revenue due in respect of mahal _____ from _____, son of _____, caste _____, plus Rs. _____ on account of costs;

Proclamation is hereby made that, unless the arrear be paid before the day herein fixed for sale, or the sale be

* Should there be superior or inferior proprietors, state which right is to be sold.

(Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Rules under Section 113.)

postponed by the Deputy Commissioner, the said property will be sold by public auction at the office of the Deputy Commissioner at _____ on the _____ day of _____ 19____, at or about _____ o'clock.

The said _____ is hereby prohibited from transferring or changing the said property in any way, and all persons are in like manner prohibited from receiving the same from him by purchase, gift or otherwise.

The sale extends only to the right, title and interest of the said _____ in the property described, and the purchaser will take, subject to any incumbrances to which the estate is liable, existing incumbrances, so far as known, as stated in the schedule.

Issued under my hand and the seal of this office this _____ day of _____ 19____.

Deputy Commissioner.

SCHEDULE.

Tahsil.	Mahal.			Note of any known lien, lease or other incumbrance upon the property.
	No.	Name and description.	Annual jama.	

FORM VII.

Whereas the Financial Commissioner of the Central Provinces has under Section 94 (e) of the Land-revenue Act, 1881, sanctioned the leasing of the mahal described in Schedule A hereto appended, for the recovery of Rs. _____, being arrears of land-revenue, cesses, additional rates and costs due from the defaulter named in the said schedule, and whereas _____, son of _____, of mauzah _____, in the _____ tahsil of the _____ district, has, in consideration of obtaining a lease of the said mahal for a term of _____ years, paid the arrears aforesaid.

Be it known that a lease of the said mahal is hereby given to the said _____ (hereinafter called the lessee) for the term of _____ years from the _____ day

(Part IV—Of Revenue Administration—Chapter
VIII—Of the Collection of Land-revenue—
Rules under Section 113.)

of _____ 19 _____, subject to the conditions and reservations, but with the powers and authorities, as follows :—

- (1) that the lessee shall regularly pay to the Deputy Commissioner of the _____ District all sums due to the Government on account of land-revenue, cesses and additional rates, *viz.*, on the 10th February Rs. _____ and on the 15th May Rs. _____ in each year ;
- (2) that the lessee shall give proper security for the punctual payment of the land-revenue, cesses and additional rates assessed on the mahal and for the fulfilment of the conditions of this lease; and that the Deputy Commissioner shall from time to time be at liberty to revise the security given by the lessee, and to call for fresh security should he consider that the security originally given is insufficient ;
- (3) that the lessee shall leave the malguzar _____ in possession of the *sir* lands described in Schedule B hereto appended, taking from him in respect thereof only such rent as may be fixed by the Deputy Commissioner under Section 107 of the Central Provinces Land-revenue Act, 1881 ;
- (4) that the lessee shall himself or through his agents or servants cultivate the *khudkasht* land described in Schedule C hereto appended ;
- (5) that the lessee shall not assign, sub-let or otherwise part with the rights conferred by this lease in respect of the said mahal or any part thereof without the permission of the Deputy Commissioner ;
- (6) that nothing inconsistent with good husbandry shall be done by, or with the connivance of, the lessee, and that he shall be liable to damages for any deterioration or injury to the mahal arising from a breach of this condition ;
- (7) that the lessee shall be bound by all the provisions of the *wajib-ul-arz* prepared for the said mahal ;
- (8) that the lessee shall in respect of the said mahal exercise all the powers conferred, and be responsible for the performance of all the duties imposed, upon lambardars and mukadams by the Central Provinces Land-revenue Act, 1881 (as amended by Act XVI of 1889), and by the rules made thereunder, and shall

(9) that the lessee shall on the expiry of the said term of _____ years peacefully yield up the said mahal to the Deputy Commissioner or to such person as he may appoint in this behalf :

(10) that the lessee shall not be entitled to any compensation or payment for any erections, buildings or fixtures erected or placed by him in the said mahal, or in respect of any improvements for agricultural purposes effected by him therein :

(11) that on the death of the lessee this lease shall be voidable from the commencement of the agricultural year next following, and that, if it be declared void, any sub-leases which may have been granted by the lessee shall also be voidable; also that if the Deputy Commissioner elect to continue the lease to the heirs of the deceased lessee or to one or more of them, fresh security for the punctual payment of the revenue and fulfilment of the conditions of the lease shall be given.

In witness whereof the Deputy Commissioner of the _____ District and the said _____ have hereunto set their respective hands this _____ day of _____ 19 ____ A. D.

SCHEDULE A.

	Tahsil.	No. of village.	Name.	Land-revenue.	Cesses.	Additional rates.	Patwari cess.	Total.	Name.	Father's name.	Caste.	Residence.	Share in the mahal.	Remarks.
1		2		4	5	6	7	8	9	10	11	12	13	14

(Part IV—Of Revenue Administration—Chapter
VIII.—Of the Collection of Land-revenue—
Rules under Section 113.)

SCHEDULE B.

Tahsil.	No. of village.	Name.	Sir fields.			Remarks.
			No.	Area.	Jama.	
1	2	3	4	5	6	7

SCHEDULE C.

Tahsil.	No. of village.	Name.	Khudkasht fields.			Remarks.
			No.	Area.	Jama.	
1	2	3	4	5	6	7

FORM VIII.

Whereas _____, son of _____,
caste _____, resident of _____,
has made default in payment of Rs. _____
on account of _____
due by him as per margin.

On account of Mahal—
Tahsil —
District—
For kist payable on 19
Amount payable, Rs.
Paid up to the
Balance
Add costs
Total to be recovered

Unless he shall prove to you
that he has satisfied the
above claim, you are to at-
tach the moveable property
of the said _____ and
hold the same until further
orders from this Court.

(Part IV—Of Revenue Administration—Chapter
VIII—Of the Collection of Land-revenue—
Sections 114 & 115.)

You are further ordered to return this warrant on or before the _____ day of _____ with an endorsement certifying the date and manner in which it has been executed, or why it has not been executed.

Given under my hand and the seal of the Court this _____ day of _____ 19 .

Deputy Commissioner.

NOTES.—(1) You are forbidden to accept the arrears in cash.

(2) If the defaulter should prove by production of the treasury chalan or money-order receipt that he has paid the arrear since the date of last payment entered above, this warrant need not be executed.

(3) If the defaulter should produce the arrear and in your presence despatch it to the treasury or to the nearest post office, this warrant need not be executed.

(4) if the defaulter produces a respectable *sipurdar* the attached property need not be taken to the tahsil.

Remedies
open to per-
son denying
that sum
demanded as
an arrear is
due.

114. Notwithstanding anything contained in Section 92, when proceedings are taken under this Act for the recovery of an arrear, the person against whom such proceedings are taken may, if he denies that the arrear or any part thereof is due, pay the same under protest made at the time of payment and duly signed by him or by his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due.

Realization of Revenue by Malguzars.

Limitation of
right to set
off, etc., in
suit for
arrears.

115. In a suit for the recovery of an arrear of revenue not being revenue payable directly to Government, and in a suit brought by a lambardar to recover the amount of any revenue payable to Government through him, the defendant shall not, except with the permission of the Court,—

(a) set off against the plaintiff's demand any sum of money recoverable by him from the plaintiff; or

(b) claim credit for any payment purporting to have been made on account when such payment was made before the date on which the amount thereof became due.

(Part IV—Of Revenue Administration—Chapter
VIII—Of the Collection of Land-revenue—
Sections 116–118.)

116. Any lambardar or sub-lambardar entitled to recover an arrear, or any malguzar to whom such an arrear is due under a sub-settlement, may, before instituting a suit for the recovery thereof, apply to the Deputy Commissioner to recover such arrear on his behalf as if it were an arrear of revenue payable directly to Government.

Recovery of
arrear
through
Deputy Com-
missioner
instead of
by suit.

The Deputy Commissioner may, if he thinks fit, comply with such application, but shall, before compliance therewith, give to the persons, who would be defendants if a suit were instituted for the recovery of such arrear, opportunity to show cause against the order which he proposes to make.

The Deputy Commissioner shall not be made a defendant to any suit instituted under Section 114 in respect of an arrear as to which an order has been made under this section.

No person on whose account the Deputy Commissioner proceeds under this section to recover an arrear shall thereby be relieved of his responsibility for such arrear.

NOTE.—Unless the Chief Commissioner has by a special or general order under the first paragraph of Section 119 directed the recovery of interest on arrears, the arrear recoverable under this section does not include interest.

117. Nothing in the Indian Limitation Act, 1877, and no agreement made after this Act comes into force, shall bar the right of the malguzars of any mahal assessed with land-revenue to demand revenue in respect of any land which, having been taken into account in such assessment, has been held by any person without payment of revenue.

Saving of
right of
malguzar to
demand
revenue of
land assessed
to revenue
and held
free.

The Chief Commissioner may, in his discretion, exempt any case from the operation of this section.

118. No suit for the recovery of revenue payable under a settlement or sub-settlement shall be instituted after three years reckoned from the date on which such revenue becomes payable.

Limitation
in suits for
revenue.

¹ As to the application of Section 116 to recovery of contributions for patwaris, see Section 146-A (2), *infra* page 173.

(*Part IV—Of Revenue Administration—Chapter VIII—Of the Collection of Land-revenue—Section 119—Chapter IX—Of Revenue and Village Records—Sections 120 & 121.*)

In other respects the limitation of such suits shall be governed by the Indian Limitation Act, XV of 1877.

Interest on Arrears.

119. Interest shall not be charged on an arrear of revenue unless the Chief Commissioner, by general or special order, so directs:

Provided that the Court may award interest at such rate as it thinks fit on sums payable under a sub-settlement.

CHAPTER IX.

OF REVENUE AND VILLAGE RECORDS.

Correction of
record-of-
rights.

120. Any entry in the record-of-rights may, after such record has been made over to the Deputy Commissioner, be corrected by the Deputy Commissioner on the application of any person interested, or of his own motion. Such correction may be made on one or more of the following grounds, and on no others:—

- (a) that all persons interested in such entry wish to have it corrected; or
- (b) that by a decree, in a suit brought under Section 83, it has been declared to be erroneous; or
- (c) that, being founded on a decree or order of a Civil Court or on the order of a Revenue or Settlement Officer, it is not in accordance with such decree or order; or
- (d) that, being founded on such decree or order, the order or decision has subsequently been modified on appeal or review, or has been revised by the Chief Commissioner.

Revision of
record in ac-
cordance with
provision
therein con-
tained.

121. The Deputy Commissioner may revise a record-of-rights when such revision is provided for in such record.

(Part IV—Of Revenue Administration—Chapter
IX Of Revenue and Village Records—Sections
122—124.)

122. When the Deputy Commissioner takes proceedings for the correction of any entry in the record-of-rights or for the revision of such record-of-rights, he shall exercise, for the purpose of such correction or revision, all the powers which the Chief Settlement Officer might have exercised if the proceedings had been taken whilst the settlement was in progress.

Powers of Deputy Commissioner as to correction of entry or revision of record.

123. The Chief Commissioner may, in his discretion, by notification in the official Gazette, direct that any specified rule, custom or condition duly entered in the record-of-rights of any specified village shall be enforced by the Government.

Power to direct that rule or custom entered in record-of-rights shall be enforced by Government.

If any of the persons with whom a settlement or sub-settlement has been made violate or neglect any rule, custom or condition with respect to which the Chief Commissioner has made a direction under this section, the Deputy Commissioner may, if no penalty is provided by any law for the time being in force for such violation or neglect, recover from such person a penalty not exceeding two hundred rupees.

Punishment of violation of such rule or custom.

NOTE—This section will enable Deputy Commissioners to secure to the ryots the enjoyment of their rights of *nistar* in the village waste. Any attempt on the part of malguzars to realise fees from their ryots for use of the village waste, or for cutting wood in the village jungle for fire-wood and other agricultural purposes, should be at once checked, and, if necessary, reported so that a notification may be issued under this section.

124. Any person against whom proceedings have been taken under Section 123 may institute a suit against Government to set aside such proceedings on the ground that no rule, custom or condition was, in fact, violated or neglected. If the Court finds that no rule, custom or condition has been violated or neglected, it may by its order annul such proceedings, and direct that any penalty paid by the plaintiff be refunded; and may also award to him such costs as he has necessarily incurred in the proceedings, and such further sum as compensation as it thinks fit.

Suit to set aside proceedings under Section 123.

(*Part IV—Of Revenue Administration—Chapter
IX—Of Revenue and Village Records—
Section 124-A.*)

Powers to
control
management
of forests.

124-A. (1) When under any record-of-rights or sanad or any agreement with the Government the proprietor or the superior or inferior proprietor of any forest-land included within, or forming, a mahal is bound to manage such forest-land in accordance with rules or instructions prescribed by any Government officer, the Chief Commissioner may make rules regarding the control and management of such forest-land.

(2) If the proprietor or the superior or inferior proprietor, as the case may be, fails to observe the rules so made, the Deputy Commissioner may issue a notice calling on him to show cause, within a reasonable time to be specified in the notice, why he should not be excluded from the possession of the forest-land.

(3) If no sufficient cause is shown, the Deputy Commissioner may, with the previous sanction of the Chief Commissioner, exclude such proprietor from the possession of the forest-land and assume the direct management thereof for a term to be fixed by the Chief Commissioner.

(4) The costs of management shall be borne by the proprietor, or by the superior and inferior proprietors in such proportions as the Chief Commissioner may direct with reference to the amount of their respective interests in the forest or mahal, and shall be realizable as land-revenue.

(5) The profits of such forest-land while under direct management shall be paid to the proprietor, or to the superior and inferior proprietors in the proportions in which the costs of management are borne by them.

(6) No leases, liens, incumbrances or contracts created or made by the proprietor or by any person through or under whom he claims, of, upon or with respect to the forest-land held under direct

¹ Section 124-A was inserted by Section 22 of the Central Provinces Land-revenue Act, 1889 (XVI of 1889).

(Part IV—Of Revenue Administration—Chapter
IX—Of Revenue and Village Records—
Rules under Section 124-A.)

management, shall be binding upon the Deputy Commissioner during such management.

(7) The Deputy Commissioner may confiscate any timber or other forest-produce cut or removed in contravention of the rules made under Sub-section (1).

(8) On the expiration of the period fixed for the direct management, the forest-land shall be restored to the proprietor, or superior or inferior proprietor, as the case may be.

I.—The following trees growing on malguzari forest-lands shall not be cut without the permission of the Deputy Commissioner:—

Notification
No. 7484 of
26th October
1891.

Mango, Tamarind, Mahua, Achar, Jamun, Harra and Bahera, and the fruit-bearing Tendu.

II.—Subject to the preceding rule and also subject to the obligation of giving two months' notice to the Deputy Commissioner in the form appended to these rules, malguzars are at liberty to cut and dispose of, as they please, forest-produce growing on culturable land in their mahals, in order to clear the land for cultivation:

Provided that it shall be competent to the Deputy Commissioner, for reasons to be recorded in writing, to prohibit or to restrict such cutting if prohibition or restriction appears to him to be desirable in the interests of the public generally, or of the village community by whom rights of *nistar* are enjoyed under *wajib-ul-arz* or by custom.

III.—The cutting of forest-produce growing on culturable land not required for cultivation and the cutting of forest-produce growing on unculturable land, that is to say, land which in the judgment of the Deputy Commissioner is to be classed as unculturable—*Bhatua, Barra, Bardi, Bhanta or Pathar*—shall be limited by the following conditions, in addition to those laid down in Rule I:—

(1) A forest is not to be leased out to a contractor without permission of the Deputy Commissioner.

(2) In cutting timber trees, seed-bearing trees must be left at the rate of not less than 30 per acre of the principal kinds cut; and the number of trees of all kinds left growing must not be less than 90 per acre, which number should be equally distributed throughout the area over which the cutting was effected.

(*Part IV—Of Revenue Administration—Chapter
IX—Of Revenue and Village Records—
Rules under Section 124-A.*)

- (3) In cutting timber and brushwood, the cutting must be effected flush with the ground, so as to encourage re-production by shoots from the stool.
- (4) In cutting bamboos, all culms of less than two years' growth must be left in the clump.
- (5) The digging up of roots is prohibited, except in the case of the *palas*, the roots of which may be dug up for fibre, provided that at least one-third of the roots are left to each tree to continue its growth.
- (6) No cutting shall, without the permission of the Deputy Commissioner, be effected within a distance of 20 yards (or 40 *haths*) of either bank of a stream or nala in which water ordinarily remains till the month of January.
- (7) The ringing of *sal* trees for resin, so as to sever the bark round the entire circumference, is prohibited.

IV.—Any material violation of Rules I, II and III will render the forest liable to be notified as requiring special protection.

Notification
No. 2876,
dated the 9th
July 1903.

V.—Where any malguzari forest-land has been notified by the Deputy Commissioner as requiring special protection, the proprietor or superior or inferior proprietor bound to manage such forest-land in accordance with these rules, shall not cut or cause to be cut for sale, or for conveyance or use outside the village area, any timber, bamboos or brushwood, save with the previous sanction of the Deputy Commissioner and in the manner and to the extent permitted thereby.

VI.—Leaves, grass and dead wood may at all times without any permission be removed from a malguzari forest by people entitled to do so.

VII.—In malguzari forest areas, which have been notified by the Deputy Commissioner under the preceding rule, the cutting of timber, bamboos, or brushwood for domestic consumption (*nistar*) will ordinarily be allowed without express permission, but the Deputy Commissioner may limit such cutting for *nistar* if he considers a limitation necessary for the preservation of the forest.

VIII.—Any malguzar or malguzars who may submit through the Deputy Commissioner a special plan for the working of his or their forests or who may apply to have a working plan made out for him or them and at his or their expense by the Forest Officer, shall, on such plan being approved by the Commissioner, be exempt from the onera-

(*Part IV—Of Revenue Administration—Chapter IX—Of Revenue and Village Records—Rules under Section 124-A.*)

tion of the preceding rules during the currency of such plan and so long as its provisions are observed.

Form of Notice under Rule II.

Name of Malguzar.	Name of forest and village in which it is proposed to cut timber.	Estimated area of forest.	Area which it is proposed to clear for cultivation, with description of soil.	By whom the land when cleared is to be cultivated.	Estimated number of timber trees to be cut, with specification of species ^a of trees.
1	2	3	4	5	6

NOTE.—This notice may be sent to the Deputy Commissioner by registered letter. If the malguzar receives, within the two months following the notice, no communication from the Deputy Commissioner under the proviso to Rule II, he may proceed to clear the land and dispose of the timber as he pleases.

The following rules have been made for the management of forest-lands in all the zamindaris of the Central Provinces:—

- I.—No *dahia* or *bewar* cultivation will be permitted in tracts in which this is prohibited by the Deputy Commissioner.
- II.—In tracts which are specially reserved under the orders of the Deputy Commissioner, no timber may be cut except by his express permission. Such permission will be given in writing, and will specify the character and amount of the timber to be cut in each case.
- III.—In working the forests included in the tracts to which Rule II applies, Zamindars will carefully observe any instructions issued by the Deputy Commissioner.
- IV.—An account must be kept by the Zamindar of all timber cut in forests to which Rule II applies; and all timber removed from such forests must be covered by passes formally issued and registered under such detailed instructions as the Deputy Commissioner may issue.

98 *Central Provinces Land-revenue.* [ACT XVIII.]

(*Part IV—Of Revenue Administration—Chapter IX—Of Revenue and Village Records—Section 125 and rules thereunder.*)

Panabaras and Ahiri Zamindaris Notification No. 555, dated the			
in Chanda			
Bhandara	...	"	76, " 31st January 1890.
Balaghat	...	"	" 8th " "
Raipur	...	"	2184, " 15th April "
Bilaspur	...	"	" 7491, " 27th November
Sampalpur	...	"	" 4523, " 24th July 1891.
Hoshangabad	...	"	" 1408, " 10th March 1904.
Chhindwara	...	"	"
The rest of the Zamindaris in Chanda.			

Powers of
Chief Com-
missioner as
to registration
of changes af-
ter prepara-
tion of record-
of-rights.

125. The Chief Commissioner may—

- (a) direct that the mukaddam of each village shall, for the purpose of showing the changes occurring therein ' [from time to time] prepare, or, where there is a patwari, cause to be prepared, and furnish, annually for such village, papers in such form, at such time, containing such particulars, and attested in such manner, as the Chief Commissioner may, from time to time, prescribe ;
- (b) lay down the procedure to be followed in order to ascertain that a change has occurred in the village, and the nature of such change.

All changes referred in this section shall be recorded in such registers as the Chief Commissioner appoints, and not in the record-of-rights, and the Chief Commissioner may direct that, before any specified changes are recorded, the order of a specified Revenue Officer shall be obtained in this behalf.

Notification
No. 4935,
dated the 21st
November
1895, as
amended by
Notification
No. 4835,
dated the 21st
July 1905.

1.—All transfers of property occurring amongst the proprietors or co-sharers of a mahal shall be recorded in a register in the following form to be called the " Register of Proprietary Mutation, which shall be maintained by the kanungo of the tahsil.

1 These words were substituted for the words " subsequently to the preparation of the record-of-rights " by the Central Provinces Land revenue Act, 1889 (XVI of 1889), Section 23.

(Part IV—Of Revenue Administration—Chapter
IX—Of Revenue and Village Records—Rules
under Section 125.)

NAME AND NUMBER OF MAHAL.

A.—Statement of Persons possessing Proprietary Right
in the Mahal.

Proprietors, Co-sharers or Muafidars of Mahals.				Serial No. in Register B and No. of page.	Date and year in which transfer occurred.
Name of each proprietor, co- sharer or muafi- dar (noting which of them is lambardar).	Details of share.				
	Frac- tional amount of share.	Area.	Reve- nue.		
1	2	3	4	5	6

B.—Detail of transfers occurring during years.

Serial No.	No. and name of mauza.	Nature of transfer.	Name of proprietor or co-sharer, whose name is removed.	Name of proprietor or co-sharer, whose name is added.	Khasra No. of plot.	Amount of share transferred.	Area of share or plot transferred.	Revenue of share or plot transferred.	Consideration money if transferred not by inheritance.	Encumbrances known to exist on property transferred.	Date of transfer.	Date of orders authorising transfer.	Amount of fees levied.
1	2	3	4	5	6	7	8	9	10	11	12	13	14

NOTE.—Register A constitutes a register for reference or initial register and is to be written every third year between the 1st August and 1st October, all changes that have been noted in Register B being amalgamated in it. Register B is intended for a record of the changes. Each transfer will be entered in order as it occurs, and separate pages

(Part IV—Of Revenue Administration—Chapter
IX—Of Revenue and Village Records
Rules under Section 125.)

will not be allotted for each mahal. An index should be provided in which the mauzas will be entered in alphabetical order and the numbers of the pages where any transfer is noted should be entered in the index against the name of the mauza. At the same time the serial number of page and date and year in which transfer occurred should be entered in Register A in the column provided. A fresh Register B should be opened every third year after the changes entered in it have been brought on to Register A.

II. —No transfer shall be recorded in the Register of Proprietary Mutations except under the orders of the Deputy Commissioner or an Assistant Commissioner invested under Section 11 of the Land Revenue Act with all the powers of the Deputy Commissioner or of an Assistant Commissioner or Tahsildar empowered by the Deputy Commissioner to dispose of cases under these rules.

NOTE.—Under Section 15 of the Act, Deputy Commissioners have been empowered to delegate to Assistant Commissioners who have passed the Departmental Examination in Revenue Law and Procedure by the lower standard and to Tahsildars the power to dispose of mutation cases.

III.—Should the Kanungo receive notice of a transfer from the Patwari, Revenue Inspector, or any person other than the person who under Section 126 is bound to give notice of such transfer, he shall make a written report to the Tahsildar or Assistant Commissioner, who shall take such action as may appear to him necessary under section 127 of the Act. If the person so summoned admits the truth of the alleged transfer, the record of his examination shall be accepted as a notice under Section 126.

IV.—On the receipt by a Tahsildar of a notice under Section 126, he shall cause a proclamation, in the form appended, to be affixed to some conspicuous place in the mahal or in each of the mahals in which the succession to or transfer of proprietary rights is reported to have taken place, and also to the door-way or other conspicuous part of the tahsil office.

Form of Proclamation.

It is hereby notified that a notice has been received that proprietary rights noted below have been transferred by* from A. B., son of, to C. D., son of, and that C. D. has received possession of the said rights.

Any person who may deny that the said rights have been transferred, and objects to the alleged transfer being recorded on the ground that it has not taken place, must prefer his objection at the Court of the ^{Tahsildar} _{Asstt. Commr.} on the of 19

* Here enter sale, or inheritance, mortgage or lease, as the case may be.

† This date shall be so fixed as to allow 15 days for objections from the date of publication of the proclamation in the mahal or mahals affected.

(Part IV—Of Revenue Administration—Chapter
IX—Of Revenue and Village Records—
Rules under Section 125.)

Mahal.	Fractional share if co-sharer.	Area.	Government revenue.
1	2	3	4

V.—On the date named in the proclamation the Assistant Commissioner or Tahsildar shall enquire into the facts of the case, and if empowered by the Deputy Commissioner in this behalf, and if the alleged change of possession is established, shall issue orders authorising the entry of the transfer in the Register of Proprietary Mutations. If not so empowered he will forward all the papers to the Deputy Commissioner or an Assistant Commissioner invested with all the powers of a Deputy Commissioner under Section 11 of the Land-revenue Act or an Assistant Commissioner empowered under Rule II, reporting at the same time all the ascertained circumstances of the case. The Deputy Commissioner or Assistant Commissioner shall, after such further enquiry as he deems necessary, pass final orders on the case, sending a copy of the orders to the Tahsildar.

VI.—No fee shall be levied for the issue of a proclamation under these rules, and no service fee shall be levied for the summoning of witnesses, except from a person making objection under Rule IV.

VII.—A fee shall be levied from the person in whose favour a transfer is recorded under Rule V and shall be calculated at the following rates:—

- | | | |
|---|---|---|
| <p>(a) For mutations by sale
(whether private or
by order of Court), or
by mortgage or lease
or by any form of
transfer other than
inheritance.</p> | { | <p>Four annas per fifty
rupees of revenue assessed
on the land transferred. If
the land transferred be
revenue-free two annas per
fifty rupees of rental.</p> |
| <p>(b) For mutations by
inheritance.</p> | { | <p>Two annas per fifty
rupees of revenue assessed
on the land transferred. If
the land transferred be
revenue-free, one anna per
fifty rupees of rental.</p> |

102. *Central Provinces Land-revenue* .[ACT XVIII.

(*Part IV—Of Revenue Administration—Chapter IX—Of Revenue and Village Records—Rules under Section 125.*)

Provided that—

- (1) a fraction of fifty rupees shall be reckoned as fifty rupees ;
- (2) no fee shall be less than four annas or more than five rupees in any one case.

VIII.—The Tahsildar shall collect the fees leviable under the preceding rule from the person in whose favour he has ordered or, as the case may be, recommended that mutation be recorded at the time of writing his order or report. If in the latter case his proposals are not confirmed under Rule V the Deputy Commissioner will order a refund of the amount realized.

IX.—Fees will be credited into the treasury by challans in triplicate. One portion of the challan will be retained for record in the treasury, one will be returned to the payee as a receipt, and the third will be filed with the record of the case. The Revenue Record-keeper must refuse to accept a record in which a copy of the challan for the fees due is not filed, unless it be accompanied by a special order of the Deputy Commissioner directing that it be received into the record-room without a challan.

X.—All transfers of property occurring among malik-makbuzas of a mahal will be recorded by the Patwari in the Khasra and Jamabandi at its preparation next after the occurrence of the transfer. If the transfer is by mortgage with possession, the name of the transferee will be added as mortgagee in possession in column 6 of the Khasra.

If the transfer is by lease, the transferee will be shown as a sub-tenant in column 7 of the Khasra.

XI —The notice of the transfer received by the Tahsildar, under section 126 of the Central Provinces Land-revenue Act, will be sent to the Patwari, who will make a note of the fact in the Remarks Column of the Khasra of the current year. The Patwari will endorse the fact that he has done so on the notice, and will return it to the Kanungo to be retained in the tahsil until the Khasra of the succeeding year is filed. It will then be attached to that Khasra.

XII.—In the case of any dispute arising regarding the entry to be made, the Patwari will proceed under Rule LXIII of the Patwari Rules.

(*Part IV—Of Revenue Administration—Chapter IX—Of Revenue and Village Records—Sections 126—128.*)

126. All persons lawfully entering into possession of proprietary rights and interests in any land shall, within a reasonable time, give notice of such entry to the tahsildar of the *tahsil* in which such land is situated.

Possession
proprietary
rights to be
notified.

NOTE.—The Chief Commissioner considers that except under special circumstances the delay in giving notice should not be allowed to exceed one month.

If any question arises whether any right or interest is a proprietary right or interest within the meaning of this section, the decision thereof by the Chief Commissioner shall be final.

NOTE.—A mortgagee with possession is bound to notify his entry into possession.

In all cases of mortgage with possession, and cases in which a lease is given for a longer period than a year, mutation proceedings should be instituted and the name of the mortgagee or lessee should be entered in the register of the proprietary mutations in addition to—not in place of—the name of the proprietor. Similar proceedings should of course be taken when a mortgage with possession is redeemed and the proprietor re-enters into possession or the lease terminates.

If the person so entering is a minor, lunatic or idiot, the guardian or other person who has charge of his property shall give the notice required by this section.

Notice to be
given by
guardian in
case of
minority or
idiocy.

127. Any person neglecting to give the notice required by Section 126 shall be liable, at the discretion of the Deputy Commissioner or Assistant Commissioner, to fine which may extend to fifty rupees for each day during which such neglect continues.

Fine for neglect to give
notice of
possession.

128. All persons being in possession of proprietary rights in land shall, on being so required by the Deputy Commissioner, prepare, or cause to be prepared, such papers, and furnish such information, as may be required for the preparation of the village papers prescribed under Section 125.

Obligation to
aid in preparation
of village papers.

104. *Central Provinces Land-revenue.* [ACT XVIII.]

(*Part IV—Of Revenue Administration—Chapter IX—Of Revenue and Village Records—Sections 129—131.*)

Fees for re-
cording chan-
ges. 129. The Chief Commissioner may direct that fees shall be leviable when changes are recorded under the last clause of Section 125, and may fix the amount of such fees.

From whom
leviable. All fees so leviable shall be levied from the person in whose favour the change is made.

Annual en-
quiry regard-
ing land held
free from re-
venue. 130. The Deputy Commissioner shall in each year make enquiry regarding all cases in which land has been granted by Government, conditionally or for a time, free, wholly or in part, from the payment of revenue.

Procedure on
breach of
conditions of
grant. If it appears to the Deputy Commissioner that the conditions of any grant have been broken by the grantee, he shall report the case through the Commissioner of the Division for the orders of the Chief Commissioner, who may direct that the land be assessed, or may pass such other order as he thinks fit.

Procedure on
expiry of
term of grant. If it appears to the Deputy Commissioner that the term of any such grant has expired, or (when the grant is for a life or lives) if the person last entitled to hold the land comprised in the grant, free from revenue, or at less than full revenue-rates, has died, he shall assess the same, and shall report his proceedings through the Commissioner of the Division for the sanction of the Chief Commissioner.

Inspection of
revenue.
records. 131. All records kept under this Act shall be open to public inspection at such times, and on such conditions as to fees or otherwise, as the Chief Commissioner from time to time directs.

Rules for the Inspection of Revenue Records.

Notification
No. 3500 of
the 21st June
1888 as
amended by
Notification
No. 648,
dated the
12th February
1903. 1.—Subject to the rules hereinafter contained, the following records and proceedings maintained under the Land-revenue Act shall be open to inspection:—

(a) *Records maintained under the Land-revenue Act—*

The Record-of-rights—Section 79 of the Act; the Register of Mutations—Section 125 of the Act; Village Papers—Section 146 of the Act.

(Part IV—Of Revenue Administration—Chapter
IX—Of Revenue and Village Records—
Rules under Section 131.)

- (b) *Proceedings under the Land-revenue Act—*
- (1) Proceedings regarding claims by a thekadar to protected status under Section 65-A.
 - (2) Proceedings of a Settlement Officer under Sections 68, 69, 70, 72 and 77, clauses (b), (c) and (d).
 - (3) Proceedings for the recovery of arrears of revenue for malguzars under Section 116.
 - (4) Proceedings for the correction or revision of record-of-rights under Sections 120 and 122.
 - (5) Proceedings under Section 123 for the enforcement of the provisions of the record-of-rights.
 - (6) Proceedings under Section 124-A regarding malguzari forests.
 - (7) Proceedings in mutation cases and under Section 127.
 - (8) Proceedings in regard to the resumption of revenue-free grants under Section 130.
 - (9) Proceedings under Sections 132, 134 and 135.
 - (10) Proceedings for the appointment, punishment or dismissal of lambardars, sub-lambardars or lambardar-gomashtas, mukaddams or mukaddam-gomashtas under Section 137.
 - (11) Proceedings for the appointment, punishment, or dismissal of kotwars under Section 147-A.
 - (12) Proceedings under Sections 161-A and 161-B.
 - (13) Proceedings in regard to village boundary disputes.
 - (14) Proceedings in perfect and imperfect partitions.
 - (15) With the special sanction of the Deputy Commissioner proceedings in any other case.

Proviso.—No correspondence in English or Vernacular and no papers declared by the Deputy Commissioner or higher authority to be confidential shall be open to inspection.

II.—For the inspection of the record of a case, which is pending or which has been decided but the record of which has not been deposited in the record-room, the permission of the officer before whom the case is pending or by whom the case has been decided shall be necessary: for the inspection of the record of such a case which has been decided and the record of which has been deposited in the record-room, the permission of the Deputy Commissioner or such official as he may appoint shall be necessary. If the officer to whom the application is made refuses permission to inspect, he shall record his refusal and his reason for making it.

(*Part IV—Of Revenue Administration—Chapter IX—Of Revenue and Village Records—Rules under Section 131.*)

III.—A person other than a Government officer, who has duly obtained permission to inspect the record of a case, may avail himself of it at any time during the first four hours of the days on which Revenue Courts are open, and only in such part of the office as shall be appointed by the Deputy Commissioner or head of the office.

IV.—No person other than a Government officer shall remove the record from the place appointed for inspection purposes. The use of pen or ink will not be allowed. Pencil and paper may be used for the purpose of taking such notes as may be necessary for future reference, but the making of any copy, abstract or detailed notes even in pencil is strictly forbidden. No mark may be made on any record or paper inspected.

It shall be the duty of the Record-keeper or other official appointed in that behalf to see that the above provisions are strictly enforced.

V.—Applications for inspection of records from persons other than Government officers, or duly appointed agents of Government shall be on paper, stamped according to the scale prescribed for miscellaneous applications to a Civil Court.

Inspection fees shall be levied from the persons aforesaid at the rate of annas 8 per hour or fraction of an hour. The fee shall be prepaid in Court-fee stamps and will in no case be refunded. The stamp shall be affixed in column 6 of the register prescribed below, and cancelled in the manner prescribed in the Court-fees Act of 1870, Section 30, and the officer who grants permission to inspection shall write his name across the stamp.

VI.—No inspection fees shall be charged for the inspection of any revenue records, books or registers by Government officers or other persons duly authorized in this behalf for Government purposes; or for the inspection of the record of a pending case by a party thereto, or by any advocate, vakil, pleader or agent, who has filed an application in the case; or for the inspection of a record by any one at the request of a Revenue Officer; nor will any fee be charged for the inspection of a record called for by a Revenue Officer. Provided that should any party to a case apply to a Revenue Officer personally or otherwise that any revenue record, book or register or set of books or registers be sent for and inspected during the hearing of the case, the applicant shall, on the application being granted, pay a fee of Re. 1 in Court-fee stamp for each such record, book or register or set of books or registers, and the officer shall send such application together with the stamp or stamps to the record-keeper for compliance. The record-keeper shall affix the stamp or stamps in column 6 as directed in Rule V and note on the application

(*Part IV—Of Revenue Administration—Chapter IX—of Revenue and Village Records—Rules under Section 131—Chapter X—Of certain Additional Powers and Functions of Revenue Officers—Section 132.*)

that he has done so: Provided also that the officer who sends for the record, book or register may remit the fee payable under this rule if he sees reason to do so.

Inspection Book.

Date.	Name of applicant for inspection.	Record, case, register or map of which inspection is sought.	Signature of officer ordering inspection.	Time occupied in inspection.	Stamps affixed.	Signature of applicant.	Remarks.
1	2	3	4	5	6	7	8

CHAPTER X.

OF CERTAIN ADDITIONAL POWERS AND FUNCTIONS OF REVENUE OFFICERS.

132. The Deputy Commissioner shall, when a settlement is not in progress, exercise the powers conferred by this Act on Settlement Officers for the following purposes:—

- (a) causing boundary-marks to be erected or repaired, and recovering the cost of such erection and repair;
- (b) assessing land-revenue on lands which are liable to assessment, but have not been assessed;
- (c) declaring any local area to be a mahal;
- (d) settling lands from which the proprietors were excluded at settlement and to which they have been or are about to be re-admitted;
- (e) settling mahals in respect of which an application has been made under the third proviso to Section 56;
- (f) dealing with claims to hold land wholly or partially free from revenue as against the malguzars;

Purposes for which when settlement is not in progress, Deputy Commissioner shall exercise Settlement Officers' powers.

(Part IV—Of Revenue Administration—Chapter X—Of certain Additional Powers and Functions of Revenue Officers—Sections 133—134.)

- (g) assessing lands gained by alluvion ;
- (h) ascertaining and recording village cesses which are levied when this Act comes into force, but have not been recorded at the settlement ;
- (i) ¹ inquiring into the claims of thekadars, gaontias, or farmers, declaring them to be protected for the purposes of Section 65-A, and, generally, carrying out the provisions of that section ; and
- (j) ¹ declaring, either on his own motion or on a reference made by a Court or Revenue Officer, land to be *sir* land under the provisions of Section 69, Sub-section (2), clause (b), and the provisos thereto.

Purposes for which Officers may be invested with Settlement Officers' powers.

133. The Chief Commissioner may, during the currency of a settlement, invest any officer with the powers conferred on a Settlement Officer by Sections 40, 41 and 42 ; or

with the sanction of the Governor-General in Council, with any other of the powers which are by this Act conferred on a Settlement Officer ; but not so as to enable him to enhance the amount of an assessment in force under Section 56.

Cognizance of, and penalty for, offence of injuring boundary-marks.

134. Any person wilfully erasing, removing or damaging a boundary-mark may be ordered by the Deputy Commissioner or by a Tahsildar or Naib-Tahsildar empowered by the Chief Commissioner in this behalf to pay to the officer making the order, in addition to any fine to which such person would be liable under Section 434 of the ^{XLV of} 160.

¹ Clauses (i) and (j) were substituted by Section 8 of the Central Provinces Land-revenue Act, 1888 (XII of 1888), for clause (i) which was added by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), Section 24.

(Part IV—Of Revenue Administration—Chapter X—Of certain Additional Powers and Functions of Revenue Officers—Sections 134 & 135.—Chapter X-A—Partition—Section 136.)

Indian Penal Code, such sum, not exceeding fifty rupees, as may, in the opinion of such officer, be necessary to defray the expense of restoring same and of rewarding the person (if any) who gave information of such erasure, removal or damage.

135. Whenever the person erasing, removing or damaging such mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been ordered to pay, the mark shall be re-erected or repaired at the cost of the proprietors, mortgagees or farmers¹ [or, in the case of regularly-settled ryotwari villages, of the ryots] of such one or more of the adjoining lands as the Deputy Commissioner thinks fit.

Procedure when person injuring cannot be found.

136. [Partition of a mahal into two mahals]—*Rep. by Act XVI of 1889, Section 26.*

CHAPTER X-A.²

PARTITION.

Perfect and Imperfect Partition.

136. (1) Partition is either perfect or imperfect.

Perfect and imperfect partition.

(2) Perfect partition means the division of a mahal into two or more mahals.

(3) Imperfect partition means the division of a mahal into two or more pattis jointly responsible for the revenue assessed on the whole mahal.

¹ These words were inserted by the Central Provinces Land-revenue Act, 1889 (XVI) of 1889) Section 25.

² Chapter X-A was inserted by the Central Provinces Land revenue Act, 1889 (XVI of 1889), Section 26.

(*Part IV—Of Revenue Administration—Chapter X-A—Partition—Sections 136-A—136-E.*)

Persons entitled to imperfect partition.

136-A. Any recorded co-sharer of a mahal and any person in whose favour a decree has been passed awarding to him a proprietary interest in a mahal, whether such interest consists of a fractional share in the whole mahal or a part of the mahal or of specific lands, is entitled to claim at any time imperfect partition of his share.

Persons entitled to perfect partition.

136-B. Any recorded co-sharer in a mahal, not being a mahal—

(a) in the Sambalpur District, or

(b) held by superior and inferior proprietors and which the Chief Commissioner by rule declares to be incapable of perfect partition,

whose share, saving such part of it as may be impartible, has been completely separated from rest of the mahal and is held by him in severalty is entitled to claim perfect partition of his share at the time of Settlement of such mahal.

Jurisdiction of Civil Court barred as to partition.

136-C. No Civil Court shall entertain any suit or application for the imperfect or perfect partition of a mahal.

Imperfect Partition.

Applications for imperfect partition to be made to Deputy Commissioner.

136-D. (1) Applications for imperfect partition shall be made in writing to the Deputy Commissioner of the district in which the mahal is situate.

(2) If the mahal is situate in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the Chief Commissioner may direct.

Procedure on receipt of application.

136-E. (1) The Deputy Commissioner on receiving an application for imperfect partition shall, if the application be in order, and not open to

(Part IV—Of Revenue Administration—Chapter
X-A—Partition—Sections 136-F—136-G.)

objection on the face of it, publish a notification of the same at his office and at some conspicuous place on the mahal to which the application relates and shall serve a notice on all such of the recorded co-sharers in the mahal as have not joined in the application, requiring any co-sharer in possession who may object to the partition, to appear before him to state his objection either in person or by a duly authorised agent on a day to be specified in the notice, not being less than thirty or more than sixty days from the date on which such notice was issued.

(2) Where from any cause notice cannot be personally served on any co-sharer, the notification shall be deemed sufficient notice under this section.

136-F. If on or before the day specified any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner on a consideration of such objection is of opinion that there is good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Objection
to partition.

136-G. (1) If the objection raises any question of title or of proprietary right which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to grant the application until the question in dispute has been determined by a competent Court or may proceed to enquire into the merits of the objection.

Objection
raising ques-
tion of title.

(2) In the latter case the Deputy Commissioner, after making the necessary enquiry and taking such evidence as may be adduced, shall record a judgment declaring the nature and extent of the interests of the party or parties applying for the partition, and of any other party or parties who may be affected thereby.

(3) The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the Code of Civil Procedure for the trial of original suits, and he may with the consent of the parties refer any question arising in such case to arbitration, and the provisions of Chapter XXXVII

(*Part IV—Of Revenue Administration—Chapter X-A—Partition—Sections 136-H—136-L.*)

of the same Code relative to arbitration shall apply to such references.

Effect of Deputy Commissioner's orders in such cases and appeals therefrom.

136-H. (1) All decrees and orders passed by the Deputy Commissioner under the last foregoing section deciding the rights of parties shall be held to be decrees and orders of the Court of Civil Judicature and shall be open to appeal as if passed by the Court of the Deputy Commissioner acting as a Court of Civil Judicature of First Instance under the Central Provinces Civil Courts Act, 1885.

(2) Upon such appeal being made, the Court of appeal may issue a precept to the Deputy Commissioner directing him to stay the partition pending the decision of the appeal.

Second appeal in such cases.

136-I. From any decree or order passed under the last foregoing section by a Commissioner sitting as a Court of appeal, a second appeal shall, where a second appeal is by law allowed, lie to the Court of the Judicial Commissioner under the law for the time being in force relating to second appeals to that Court.

Option to parties to make partition themselves or appoint arbitrators.

136-J. When it has been decided to make a partition under this Chapter, the Deputy Commissioner may give the parties the option of making the partition themselves or of appointing arbitrators for the purpose, or he shall make the partition himself.

Proceeding to be recorded by the Deputy Commissioner before making partition.

136-K. Before commencing to make the partition the Deputy Commissioner shall record a proceeding specifying the lands held in severalty, if any, and the land held in common, and laying down the principles to be followed in making the partition, with particulars of the method on which such principles are to be applied.

Each patti to be made as compact as possible.

136-L. (1) The patti of each sharer shall be made as compact as possible ;

(Part IV—Of Revenue Administration—Chapter
X-A—Partition—Sections 136-M—136-N.)

Provided that, so far as may be compatible with fairness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

(2) No partition shall be disallowed solely on the ground of incompactness.

NOTE.—See note under Section 136-N.

136-M. (1) If in making the partition it be necessary to include in any patti the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose patti it may fall.

Rule when house of one sharer is included in the patti of another.

(2) The limits of such land and the rent to be paid for it shall be fixed by the Deputy Commissioner.

136-N. (1) No *sir* land belonging to any co-sharer shall be included in the patti assigned on partition to another co-sharer unless with the consent of the co-sharer who cultivates it, or unless the partition cannot otherwise be conveniently carried out.

Sir land belonging to one sharer not to be included without his consent in the patti of another sharer.

(2) If such land be so included and after partition such co-sharer continue to cultivate it, he shall be recorded as an occupancy-tenant in respect of such land, and his rent shall be fixed by order of the Deputy Commissioner.

NOTE.—The following ruling of the Chief Commissioner on the interpretation of Sections 136-L and 136-N of the Land-revenue Act, relating to imperfect partitions, is published for general information.

2. The ruling is an important one, as laying down that the partitioning officer has the power of rectifying an arrangement by which one of a number of co-sharers has succeeded in appropriating to his own cultivation an unfair share of the *sir* lands of a mahal, in all cases where the appropriation does not constitute exclusive ownership lawfully acquired with the consent of his co-sharers.

3. Where such ownership has been acquired over *sir* land, it may still, under the circumstances described in Section 136-N (1), be allotted to the patti of another co-sharer ;

(Part IV—Of Revenue Administration—Chapter X-A—Partition—Rules under Section 136-N.)

but in that case the former owner is entitled to continue in possession of it as an occupancy-tenant, and is of course entitled to proprietary profits from other land equivalent to those he has lost by the partition.

4. It need scarcely be added that where the applicant for the partition has acquired by purchase a proprietary share without expressly acquiring the right to cultivate the *sir* land, the provisions of Section 45 of the Tenancy Act act as a bar to his being allotted cultivating possession of any *sir* land, and if such *sir* land falls into his proprietary patti, the ex-proprietor must, by the operation of Section 45, become an occupancy-tenant.

Ruling by the Chief Commissioner in a case of imperfect partition, explaining the meaning attaching to the words "held in severalty by a co-sharer," Section 136-L, and "belonging to a co-sharer" Section 136-N of the Land-revenue Act [Proceedings of the Chief Commissioner, Central Provinces, in the Revenue Department, No. 5175, dated the 7th December 1895].

There is a distinction between the terms "land held in severalty by a co-sharer" and "belonging to a co-sharer" as used in Sections 136-L and 136-N of the Land-revenue Act. The word "belonging" must be interpreted literally in the ordinary acceptation of the term as referring to exclusive ownership, and the terms "*sir* land belonging to a co-sharer" must denote the "*sir* land" of which that co-sharer is exclusive proprietor, *i. e.*, land which has ceased to belong to the joint estate.

Such would be the case when a co-sharer accepted a *sir* field out and out in lieu of the proprietary profits attaching to his share in the mahal or when all the co-sharers have formally apportioned the *sir* land among themselves and are no longer responsible to the lambardar or to each other for the distribution of proprietary profits of the lands in proportion to their shares in the mahal; or again, a co-sharer may have lawfully purchased, with the consent of his co-sharers, the exclusive ownership of particular *sir* land from the proceeds of his self-acquired property.

In all the above cases the lands in question have ceased to belong to the joint estate and may be said to *belong* to the co-sharers in possession of them.

There may, however, be many cases of *sir* land held in severalty by a particular co-sharer which does not belong to him in the sense explained above. The sharers in a mahal may have made a distribution of *sir* land for the sake of convenience of management, each paying to the lambardar the rental value of the particular land he holds and receiving back from the common balance a share of the proprietary profits in proportion to his share in the mahal not in proportion to the rental value of his land; or again a co-sharer may break up waste and acquire *sir* right in a piece of banjar, in which case he will be holding the *sir* land in severalty, though it will not belong to him in the sense of being in his exclusive ownership. Had it been the intention of the Legislature that the provisions of Section 136-N should apply to lands merely held in severalty, that expression must certainly have been repeated in that section. It cannot therefore be held that the *sir* land which is held in severalty by a co-sharer in a mahal will, as a matter of course, be considered as belonging to him within the meaning of Section 136-N of the Land-revenue Act, otherwise it would be impossible for a co-sharer to obtain a fair share of the *sir* land of a mahal. The distribution of the *sir* land would depend not upon the right of the co-sharers, but on the wish of the strongest co-sharer and no redress would be possible. This would certainly be foreign to the intention of Section 136-L of the Act,

(Part IV—Of Revenue Administration—Chapter X-A—Partition—Sections 136-O—136-S.)

which merely lays down that any existing apportionments of the cultivating possession of land should not be disturbed when they are compatible with a fair partition.

136-O. (1) Tanks wells, water-courses and embankments shall be treated as attached to the land for the benefit of which they were originally made. Rules as to tanks, wells and other irrigation works.

(2) Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the pattis into which the mahal may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each patti may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works shall be divided

136-P. (1) Places of worship and burial-grounds held in common previous to the partition of a mahal shall continue to be so held unless the parties otherwise agree among themselves. Rule regarding places of worship and burial-grounds.

(2) In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

136-Q. (1) If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Deputy Commissioner, the case may be dismissed. Deputy Commissioner may dismiss case for non-payment of costs or may quash proceedings.

(2) If at any stage of the proceedings there appear to be any reason for stopping the partition, the Deputy Commissioner may stay the partition and order the proceedings to be quashed, recording his reasons for so doing.

136-R. On completion of the partition the Deputy Commissioner shall submit the proceedings to the Commissioner, who may either uphold the partition proposed or modify it or quash the proceedings; and a partition shall not take effect until it has been sanctioned by him. Commissioner's sanction to partition necessary.

NOTE.—The Chief Commissioner has invested Commissioners with the power to delegate to Deputy Commissioners of districts the power to pass final orders under this Section, *vide* Note iv below Section 15, *supra*.

136-S. (1) On a partition being sanctioned by the Commissioner, the Deputy Commissioner shall publish a notification of the fact at his office and at When partition sanctioned, notification to be published.

(*Part IV—Of Revenue Administration—Chapter X-A—Partition—Sections 136-T—136-V.*)

some conspicuous place in the village or villages of the mahal of which the partitioned pattis formed part.

(2) The partition shall take effect from the first day of the agricultural year next after the date of such notification.

Perfect Partition.

Applications or perfect partition to be made to Settlement Officer.

136-T. (1) Applications for perfect partition shall be made, in such form as may be prescribed by the Chief Commissioner, to the Settlement Officer charged with the settlement of the area in which the mahal is situate.

(2) Such applications must show that the share which it is desired to have formed into a separate mahal is already held in severalty saving such portion of it as may be impartible. An application failing to show this shall be rejected.

Settlement Officer may declare shares in mahals to be separate mahals.

136-U. (1) Subject to any rules which may be made by the Chief Commissioner, the Settlement Officer, if he is satisfied of the truth of the matters stated in the application, may, if he thinks fit, declare the share to be a separate mahal, and may assess it separately to land-revenue:

Provided that no share shall be declared to be a separate mahal till the proprietors of other shares in the mahal have been given an opportunity of objecting to its perfect partition.

(2) Except with the sanction of the Commissioner, an incompact estate shall not be declared to be a separate mahal.

Supplemental Provisions.

Power to make rules regarding partition proceedings.

136-V. The Chief Commissioner may make rules regarding—

- (a) the form in which applications for partition shall be made;
- (b) the procedure to be followed in referring matters to arbitrators and in giving effect to the award of arbitrators;
- (c) the costs of partition and the mode in which costs are to be apportioned; and
- (d) generally, for carrying out the provisions of this Chapter.

(Part IV—Of Revenue Administration—Chapter
X-A—Partition—Rules under Section 136-V.)

Rules for Perfect Partition.

1. When the proprietary rights in a mahal have, under the award of a Settlement Officer, been sub-divided into superior and inferior rights, which are held by different persons, no co-sharer in either the superior or inferior proprietary rights shall be entitled to apply for perfect partition of his share without the special sanction of the Chief Commissioner.
2. A share in a mahal shall not be separately partitioned if the effect of such partition would be to create a mahal, the area of which would be less than 100 acres, unless the land-revenue, assessed or assessable, would be Rs. 100 or more.
3. Except with the sanction of the Commissioner, no application for perfect partition of a mahal shall be accepted after its revised assessment has been sanctioned by the Chief Commissioner.
4. An application for perfect partition shall be accompanied by a statement in the following form :—
- Notification No. 5523, dated 1st September 1890.

Details of shares or pattis with names of sharers or pattidars.	Area held in severalty by each sharer or pattidar.			Area held in common.			
	Occupied.		Un- occu- pied.	Total	Occu- pied.	Un- o ccu- pied.	Total.
	Sir land, khudkasht	Held by malik- makbuzas and tenants.					

Details of the area held in common shall be given at foot.

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5. On receipt of the application, the Settlement Officer shall have its details verified by reference to the settlement records, and if they are found to be correct or to contain no inaccuracies on points affecting the claim to partition, he shall, on the applicant depositing the costs of service and such sum as the Settlement Officer may fix to cover the costs of partition, summon the other sharers in the mahal to attend before him, either in person or by recognized agent, on a date to be fixed by him.

6. Settlement Officers shall inform the sharers of the approximate proportions in which the total revenue of the mahal will be distributed if perfect partition be effected, and shall ascertain whether they are in favour of such partition or not, recording the substance of their statements.

7. If the Settlement Officer decides to make perfect partition, he shall submit the proceedings to the Commissioner for approval, together with a trace of the village map, on which the limits of the new mahals as proposed shall be shown in colours.

8. On receipt of the Commissioner's approval, the Settlement Officer shall record a formal order declaring the partition shares to be separate mahals and giving details of their area and land revenue, and shall arrange for the demarcation of the boundary line between the new mahals by permanent boundary marks.

Rules for Imperfect Partition.

1. Under Section 136-A of the Central Provinces Land-revenue Act every person whose name appears in the record-of-rights as entitled to any proprietary right in a mahal in common with another or others, whether that right be superior or inferior, and every person whose right to be so recorded has been affirmed in a Civil Court, is entitled to claim imperfect partition.

Notification
No. 1739 of
30th May
1892, as
amended by
Notifications
No. 5419 of
6th Decem-
ber 1894,
No. 1746,
dated 26th
April 1899,
and No. 2274,
dated 11th
May 1901.

2. An application for partition (to be made in Form A appended to these rules) must clearly specify the extent of the share to be partitioned and the extent of all other shares in the mahal, and shall be supported by a certified copy of the entries in the register of proprietary mutations relating to the mahal. It shall state whether under any private

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arrangement with his co-sharer or co-sharers the applicant is in possession of lands representing in part or in whole his share in the mahal, and if in whole, his reasons for applying for a partition.

3. An application for partition shall also specify the names and situation of all mahals or shares in mahals in the same district owned by the applicant and the same co-sharers as the mahal or share of which partition is sought.

4. If two or more co-sharers apply at the same time for imperfect partition of their shares, their applications shall be dealt with together. If during the progress of a partition a co-sharer who has not joined in the original application files an application for imperfect partition of his share such application shall, if possible, be dealt with together with the applications previously filed. But if such a course would entail delay in the completion of the original proceedings, no action shall be taken on the subsequent application until after the completion of those proceedings.

5. On receipt of the application, the Deputy Commissioner will consider whether it is open to objection on the face of it, and whether it is in order: and to this end the Revenue Record-keeper shall be called on to report—

- (1) the present recorded proprietors of the mahal and how they derive their title from the person or persons with whom the last settlement was made;
- (2) the constitution of the mahal as recorded in the settlement record-of-rights and any provisions regarding partition therein contained;
- (3) other facts (if any) relevant to the application.

A date shall be fixed for the submission of the Record-keeper's report, which shall not be more than one week from the receipt of the application; and on the date so fixed the applicant or his recognized agent shall be examined, in order to ascertain that his intentions are such as can be carried out under the law.

6. If on consideration of the Record-keeper's report and the applicant's statements there appears to the Deputy Commissioner to be any valid objection to the application

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X-A—Partition—Rules under Section 136-V.)*

the Deputy Commissioner shall either reject it, or, when the objection is susceptible of removal, return it for amendment.

7. If no objections to the proceedings be disclosed by this initial enquiry, a notification shall be published and notices shall be issued in the manner, and on the persons specified in Section 136-E of the Land-revenue Act, on the applicants depositing costs of service. The notification and notice shall respectively be in Forms B and C appended.

During the term allowed by the notification referred to in the last preceding paragraph, the Tahsildar of the tahsil in which the mahal is situated shall be required to report to the accuracy of the statements in the application with especial reference to the details or shares and their present holders.

The Tahsildar shall refer in this report to other relevant matters within his cognizance.

8. On the date fixed in the notification or any subsequent day to which the proceedings may be postponed, the Deputy Commissioner shall consider any evidence or statements in support of or against the application, and shall record his decision in the case of each objection. He shall also embody in his proceedings an abstract of the reports furnished under Rules 4 and 6 by the Tahsildar and Revenue Record-keeper.

9. If on a consideration of the objections the Deputy Commissioner is of opinion that there are good and sufficient reasons for rejecting the application, he shall reject it, recording his reasons for doing so. If the objection raises any question of title or proprietary right, the Deputy Commissioner shall proceed under Sections 136-G—136-I.

10. Whenever it appears either from the application itself, or upon the objection of a co-sharer, or at any other stage of the proceedings, that the whole property owned jointly by the applicant and his co-sharers in the mahal or share sought to be partitioned consists of two or more mahals or shares in the district in which the application is filed, the Deputy Commissioner shall make such summary

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enquiry into the value and circumstances of all such mahals or shares as he may deem necessary.

If on such enquiry it appears to the Deputy Commissioner that the partition of the whole property could be more suitably effected by the distribution among the co-sharers of whole mahals or shares, he may, unless the applicant can show that the application to divide each such share or mahal singly, or any one of such shares or mahals independently of the others, is reasonable, proceed to make the partition in accordance with Section 136-W.

11. If the Deputy Commissioner considers that the application should be granted, he shall record an order bringing the estate under partition. Such order shall specify the extent of the shares of each applicant and of those who have not applied, and shall state the estimated cost of partition and its apportionment to the proprietors of each share. One-third of the costs so estimated shall be deposited within 15 days of the date of the order bringing the estate under partition and the remaining two-thirds shall be payable at the time and in the instalments which the Deputy Commissioner may from time to time direct.

12. If the costs are not deposited within the period specified in the last preceding paragraph, the Deputy Commissioner may strike off the case and recover, under Section 94 of the Central Provinces Land-revenue Act, from the applicant for partition the expenses (if any) already incurred. If the costs are deposited, the Deputy Commissioner shall, if the mahal has not been recently surveyed, cause it to be surveyed and a rent-roll prepared, exhibiting, so far as may be possible, the total rents payable in the mahal, the rates of rent, the classes of tenants, qualities of soil, nature and estimated quantity of produce, and all other relevant information.

In appointing an Amin, the Deputy Commissioner shall fix a date for the submission of the Amin's report.

When the survey made at the previous settlement and the khasra and jamabandi of the mahal have been kept up to date by the Patwari, it will not ordinarily be necessary to re-survey.

13. In making the survey or other local enquiry the Deputy Commissioner shall ordinarily employ the Patwari

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X-A—Partition Rules under Section 136-V.)

of the village concerned. But for sufficient reason to be recorded, he may employ a special Amin who shall be paid a salary not ordinarily exceeding Rs. 30 per month.

14. All persons connected with the mahal shall be bound to furnish the Patwari or Amin with such information relevant to the partition as he may by written notice require.

15. When in making a partition it has been necessary to divide a tenant's holding into two or more holdings by distributing the land included in it between two or more parties, the Deputy Commissioner shall fix the rent of each such holding by apportionment of the rent paid on the original holding. A statement giving details of the rents fixed under this rule shall be drawn up in the following form and be filed with the record:—

Name of tenant with usual additions and class of tenure.	Details of original holdings as it stood before partition.						Details for each holding created by partition.		
	Khas-ra numbers.	Area classed by soils.			Total area.	Rent.	Patti I.	Patti II.	Etc.
							Columns as 2—7.	Columns as 2—7.	Columns as 2—7.
1.	2	3	4	5	6	7			

Each tenant shall be given a copy of the entries affecting him.

16. When the Deputy Commissioner is satisfied that he has before him all the information requisite for executing the partition, he shall record an order to that effect and fix a day and place for settling the general arrangements of partition. If possible the place should be the village in which the lands are situated.

If the applicant does not attend in person or by recognized agent on the date fixed in the summons, the case may be postponed subject to such order as to costs as the Deputy Commissioner may pass; or it may be struck off. If any co-sharer who has been duly summoned does not attend, the case may be postponed, subject to any order as to costs which the Deputy Commissioner may consider fit to pass, or it may be proceeded with in the co-sharer's absence.

(*Part IV—Of Revenue Administration—Chapter
X-A—Partition—Rules under Section 136-V.*)

17. On the date fixed in the summons, the Deputy Commissioner shall consider all the information referred to in paragraph 14 above, and may also examine the applicant and the co-sharers and Patwari, or such of them as are present, as to the constitution of the mahal and the manner in which they wish the partition to be effected.

The Deputy Commissioner may allow the proprietors to make a private partition among themselves on the basis of the information collected. If the co-sharers present desire that the partition be effected by arbitration, the Deputy Commissioner may refer the proceedings to arbitrators, fixing their number and the mode of their nomination, and recording any instructions for their guidance he may think necessary. The number of arbitrators shall ordinarily be three, one being nominated by the applicant or applicants for partition, a second by the other co-sharers, and a third as umpire by the Deputy Commissioner, and their proceedings shall be generally governed by the provisions of Sections 506—522, both inclusive, of the Civil Procedure Code.

18. If a private partition is not made or if the arbitration paper is not presented to the Deputy Commissioner within the time fixed by him, he may withdraw the case from private partition and arbitration and make the partition himself.

19. In making the partition the Deputy Commissioner will have regard to the information referred to in paragraphs 10, 11 and 13 above, and to the statements of the parties and their witnesses and the Patwaris and other persons having knowledge, to the provisions of Sections 136-L to 136-P inclusive of the Land-revenue Act, and to the following considerations :—

- (a) vicinity of roads, railways, rivers, &c.,
- (b) the facilities for irrigation,
- (c) the state of embankments and water-courses,
- (d) any other circumstances affecting the value of the land.

20. The "partition proceeding" required by Section 136-K shall include a statement in the following form. The terms and nature of the proceeding shall be carefully explained

(Part IV—Of Revenue Administration—Chapter
X-A—Partition—Rules under Section 136-V.)

<i>Unoccupied.</i>					
Groves	..				
"	..				
Tree forest	..				
"	..				
Shrub jungle and grass	..				
Covered with water, hill and rocks.	..				
Roads	..				
Total unoccupied	..				
GRAND TOTAL	..				

Explanations.

- (i) Columns 2-5, 7-10 and 12-15 are for soil classes. They need only be filled up in the case of occupied lands. Their number will depend on the number of soil classes adopted. Only the principal heads used in soil classing need be adopted. Minute classification is unnecessary.
- (ii) The assets shown in columns 6, 11, 16 and 21 will include (1) a fair rental valuation [at rates paid by occupancy or ordinary tenants] in the case of *si* and *khudkhasi*, (2) the rental paid by tenants and the revenue [*piur* *hak-ul-tahsil*, if any,] paid by *malik-makbuzas*, and (3) *siwat* income in the case of unoccupied land.
- (iii) Any fields allotted to the share under partition which are now held in severalty by the sharer claiming partition or by other co-sharers should be noted in the remarks column.
- Details of property held in common [village site, tanks, wells, temples, burning or burial grounds, &c.] are to be given in a schedule attached to this statement, on which the wishes of the co-sharers in regard to them should be carefully noted, and the proposed arrangements for their disposal described.

(*Part IV—Of Revenue Administration—Chapter X-A—Partition—Rules under Section 136-V.*)

21. When the objections referred to in paragraph 18 of the above have been considered and any necessary modifications effected in the partition proceeding, such proceeding shall be made over to the Patwari or to the Amin, as the case may be, with instructions—

- (1) to check the accuracy of the map and records on which it is based, noting any corrections which are needed;
- (2) to explain its details to the co-shares; and
- (3) to make a tracing of the village map corrected up to date.

Notifications (in Forms D and E) should be issued warning all persons interested in the partition to attend the Patwari (or Amin).

At the same time a day should be fixed for the further hearing of the case, the co-sharers being summoned to attend either in person or by recognized agent, and the Patwari or Amin, as the case may be, being ordered to produce the map and papers. The date so fixed should be generally notified by the issue of a notification in Form F.

22. On the day appointed or any other date to which the hearing may have been postponed, the Deputy Commissioner shall re-consider the proceedings, and after calling for any further information that may be necessary and disposing of any objections may approve the partition with any amendments he may think proper.

23. When two or more separate shares shall consist of equal shares of the parent mahal, the Deputy Commissioner may direct the parties to draw lots in his presence for their shares, unless they come to a mutual agreement as to the allotment.

The agreement of any co-sharers to the final scheme of partition shall be recorded and signed by them. Any objections shall be recorded by the Deputy Commissioner together with his reasons for over-ruling them.

24. The Deputy Commissioner's final order for partition shall include a revised copy of the statement mentioned in paragraph 18 of these rules, such revised statement to be called "the Partition Statements." It shall also contain revised schedule of the costs of partition and of the method of their apportionment. These costs, if in arrear, shall be recoverable from the co-sharers concerned under the procedure specified in Section 94 of the Land-revenue Act.

25. The partitioned share or shares shall then be clearly marked on the map, traced in colours, and the case submitted to the Commissioner for sanction.

(Part IV—Of Revenue Administration—Chapter X-A—Partition—Rules under Section 136-V.)

A date shall be fixed for the appearance of any objecting co-sharers in the Commissioner's office, and a notice in Form G issued from that office.

26. When the partition has been sanctioned by the Commissioner, the Deputy Commissioner shall cause a revised jamabandi of the village to be prepared, in which the lands which have been partitioned shall be entered as a separate patti. The jamabandi and map shall be signed by him, and shall be deposited in the district record-room. A copy of the revised jamabandi shall be given to the Patwari of the mahal, and copies may be supplied to co-sharers on payment of the usual fees.

He shall also draw up a final order declaring that the partition has been sanctioned by the Commissioner and that it shall come into force from the first day of the next agricultural year, and shall publish such order by notification, under Section 136-S of the Land-revenue Act, at his office, and at some conspicuous place in the village or villages of the mahal of which the partitioned patties form part.

Possession of the shares allotted to them shall be given to the parties from the first day of the agricultural year next after the confirmation of the partition by the Commissioner, and the Deputy Commissioner may require the assistance of the Magistrate in giving such possession.

NOTE.—The final order prepared under paragraph 2 of this rule must be stamped under Schedule I, Art. 37 of the Indian Stamp Act, 1 of 1879, and Government of India Notification No. 5199-S. R., dated the 1st November 1895, Schedule I, No. 5, Department of Finance and Commerce, with a duty not to exceed the amount payable on a valuation of the land at five times the annual revenue.

27. A private partition made by the sharers under Rule 15 above or the award of arbitrators appointed under these rules shall, if approved by the Deputy Commissioner, be formulated by him in a Partition Statement, such as is prescribed by Rule 22. Rules 23 and 24 shall apply to proceedings based on such private partition or arbitration.

28. A Patwari who has performed his duties in a partition case satisfactorily and without any detriment to his duties under the Patwari Rules may be granted a reward which shall not ordinarily exceed Rs. 5 per 100 acres, but may in special cases of exceptional intricacy and difficulty extend to Rs. 10 per 100 acres.

29. The costs of partition shall ordinarily be borne by all the co-sharers of the mahal, in the proportion which their shares bear to the entire mahal. But for special reasons, to be recorded by him, the Deputy Commissioner may direct that costs shall be borne by the applicants for partition either alone or in conjunction with one or more of the non-applicant co-sharers.

*(Part IV—Of Revenue Administration—Chapter
X-A—Partition—Rules under Section 136-V.)*

If any proprietor has vexatiously or by want of due diligence imposed obstacles in the way of the completion of the partition, an amount in excess of his proportionate share of the costs may be recovered from him, and such excess amount shall go in reduction of the amount to be levied from the other sharers.

30. When a co-sharer who has not joined in the original application for partition applies under Rule 3 for partition of his share, or whenever a local enquiry is held in consequence of an objection raised by any person, whether a sharer in the mahal or not, the Deputy Commissioner may declare the costs incurred by such subsequent application for partition or by such enquiry, and order that such costs be recovered in whole or part from the person making the application or raising the objection.

31. The costs of partition shall include—

- (a) the costs of any establishment entertained for partition purposes ;
- (b) all contingent expenses incurred on account of partition ;
- (c) process fees ;
- (d) fair share of the cost of any establishment maintained in the Deputy Commissioner's or Commissioner's office for partition work.

The estimate of costs mentioned in Rule 9 above shall ordinarily be calculated on the total area of the mahal affected by the partition, at a rate which shall not ordinarily exceed Rs. 9 per 100 acres. If this amount should fall short of the actual expenses incurred in making the partition as ascertained under Rule 22 above, the difference between the estimated and actual expenses shall be costs in the case and recoverable in accordance with the procedure laid down in Section 94 of the Land-revenue Act.

32. In these rules Deputy Commissioner includes an Assistant Commissioner, Extra-Assistant Commissioner and a Tahsildar, if empowered by the Chief Commissioner to effect a partition or to conduct any of the proceedings connected therewith.

33. The progress of each case is to be recorded in register (Form H), and an account maintained of receipt and expenditure (Form I). Quarterly returns of partition work will be submitted by Deputy Commissioners in Form J.

*Part IV—Of Revenue Administration—Chapter
X-A—Partition—Rules under Section 136, V.)*

FORM A.

Application for Partition.

The Deputy Commissioner of—

- (1) Name and residence of applicant,
- (2) Name of the estate,
- (3) Number under which the estate is borne on the revenue roll and the revenue demand for which it is liable,
- (4) Name and address of every proprietor, whether recorded or unrecorded,
- (5) Character and extent of the interest of which each proprietor is in possession,
- (6) Specification of the lands (if any) which applicant is in possession of under any private arrangement with his co-sharers, and the portion of his share which these lands represent. If the lands of which he has separate possession represent his whole share, statement of his reasons for applying for partition,
- (7) Specification of any lands held by all or any of the proprietors of the parent estate in common with all or any of the proprietors of other estates, and of the rights of such proprietors respectively in such lands.
- (8) Remarks.

I _____ do declare that this application is correct to the best of my knowledge and belief.

FORM B.

*Notification under Section 136-E of the Central Provinces
Land-revenue Act.*

DISTRICT _____

Be it known to all sharers in mahal _____
mauza _____ that _____ has made appli-
cation for the imperfect partition of the share owned by him
in the said mahal. Any sharers having anything to urge in
favour of or against such partition should appear either in
person or by recognized agent at the office of _____ on
the _____ day of _____ 19 _____.

Deputy Commissioner,

Dated the _____.

*Part IV—Of Revenue Administration—Chapter
X-A—Partition—Rules under Section 136-V)*

FORM C.

*Notice under Section 136-E of the Central Provinces.
Land-revenue Act.*

DISTRICT _____ sharer in
To _____ mauza _____
mahal _____
You are hereby informed that _____, sharer
in the above mahal, has made application for the imperfect
partition of his share. If you have any objection to make
to such partition, you are required to appear in person or by
recognized agent at the office of _____ on
the _____ day of _____ 190 .

Deputy Commissioner.

Dated the _____

FORM D.

Notification to Proprietors, Managers, &c., to attend.

Notification to
Proprietors of mahal _____
Tahsil _____ Zilla _____
To-day the records connected with the partition of this
mahal have been submitted for the purposes of appointing
an [Amin or Patwari] for the measurement, and an [Amin
or Patwari] has this day been appointed for that purpose;
therefore under

you are informed that you are required to attend in
person or by an agent upon the [Amin or Patwari] for the
purpose of pointing out boundaries, and affording such
assistance and information as may be required for the pur-
poses of the Partition Act. Herein fail not.

Deputy Commissioner.

Dated the _____

FORM E.

Notice to Proprietors and others to attend.*

Name and number of mahal _____
Tahsil _____ District _____
The records of the partition of mahal _____
tahsil _____, district _____
having been submitted to the Deputy Commissioner, and
the undersigned having been appointed by the Deputy

*Other person whose attendance is required,

*(Part IV—Of Revenue Administration—Chapter
X-A—Partition—Rules under Section 136-V.)*

Commissioner to make the measurement and prepare the jamabandi, you are informed that you are required to attend the undersigned for the purpose of making the measurement and preparing the jamabandi. In case of your failure to attend, proper orders will be passed by the Deputy Commissioner. Herein fail not.

Patwari or Amin, &c.

Dated the _____.

FORM F.

*Notification to Proprietors of date for deciding mode
of partition.*

Whereas the papers connected with the measurement and revised rent-roll for the partition of mahal _____ No. _____, tahsil _____, district _____, have been completed, and the papers are sufficiently correct to be accepted or adopted for the purposes of the partition, notice is hereby given _____ that _____ has been fixed for the determination of the general arrangement of the partition, and all proprietors of the mahal are called on to be present in this office on that day. The proprietors are not to fail in this.

Deputy Commissioner.

Dated the _____.

FORM G.

Notice to the Recorded Proprietors.

To _____ of mahal _____
Pargana _____ District _____.
As the partition of mahal _____
No. _____, tahsil _____, district _____
has been approved by the Deputy Commissioner of that district, you are hereby informed that the papers have been submitted to me for confirmation, and that I shall consider the case on _____.

Any appeals or objections must be presented in this office within 15 days from the service of this notice.

Commissioner.

Dated the _____.

(Part IV—Of Revenue Administration—Chapter
X-A—Partition—Ruels under Section 139-V.)

FORM H.
Register of Proceedings for the partition of Estates under Chapter X-A, Central Provinces
Land-revenue Act.

[To be maintained in the Deputy Commissioner's Office.]

N. B.—If the partition is rejected under Section 136-F, or if it is quashed by the Commissioner under Section 136-R, or if it has been arranged by private agreement or by arbitration under Section 136-J, the fact should be noted in column 8.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	
Number.	Name of Mahal and its Number on the roll.	Former Revenue of the estate.	Name of the applicant for partition.	Name of the co-partners and extent of their respective shares.	Area in acres of property to be divided.	Date of presentation of application to Deputy Commissioner.	Date of Deputy Commissioner's order for partition.	Court to which the further proceedings in the case have been transferred.	Number and description of shares into which the partition is to be made.	Estimated cost (a). 1st instalment (b). 2nd instalment (c). 3rd instalment (d). Date fixed for payment of	Particulars of estimated cost of partition; dates fixed by Deputy Commissioner for payment of instalment, and dates on which instalments have been paid. When paid. 1st instalment. 2nd instalment. 3rd instalment.	Date of preparing partition proceeding.	Date of approval of partition statement by Deputy Commissioner, Section 136-R.	Date of submission of partition papers to Commissioner.	Purpose and date of Commissioner's order in appeal if preferred.	Date of confirmation of partition by Commissioner.	Date of possession being given to the several proprietors of the separate estates allotted to each.	Remarks.

(Part IV—Of Revenue Administration—Chapter
X-A—Partition—Rules under Section 136-V.)

FORM I.

Register of Receipts and Expenditure on account of Mahals under partition.

[To be maintained in the Deputy Commissioner's Office.]

[illegible]

134 *Central Provinces Land-revenue.* [ACT XVIII.

(Part IV—Of Revenue Administration—Chapter
X-A—Partition—Rules under Section 136-V.)

FORM J.

*Quarterly Statement showing the progress made in the
disposal of Partition Cases in the District of _____
during the quarter ending.*

[To be submitted to the Commissioner.]

	Quarter ending.	
(1) Number of cases at the beginning of the quarter.		
(2) Institution during the quarter ..		
(3) Number of cases rejected by Deputy Commissioner under Section 136-F.		
(4) Number of cases sent to Patwari or Amin for measurement or enquiry.		
(5) Number of cases submitted for approval of the partition.		
(6) Number of cases postponed or returned to Amin or Patwari for further enquiry.		
(7) Number of cases confirmed by the Deputy Commissioner.		
(8) Number of cases disposed of by the Deputy Commissioner, <i>i. e.</i> , by submission to the Commissioner for confirmation.		
(9) Number of cases confirmed by the Commissioner.		
(10) Number of cases quashed by the Commissioner under Section 136-R.		
(11) Number of cases pending at the close of the quarter—		
(a) Not over 6 months ...		
(b) Over 6 months ...		

NOTE.—(1) By pending cases are meant cases which are pending with the Deputy Commissioner or with one of his Assistants, and which have not been submitted to the Commissioner of the Division for sanction or which, having been submitted, have been returned by the Commissioner for completion or further enquiry.

(2) For all cases pending over six months a statement should be added on the back of the form giving the name of the case and the date of institution. An explanation of the delay need only be submitted when specially called for by Commissioner.

(Part IV—Of Revenue Administration—Chapter X-A—Partition—Section 136-W—Chapter XI—Village-officers and Patwaris, Section 137.)

¹136-W.—Notwithstanding anything contained in this Chapter, when an estate in respect of the whole or part of which imperfect partition is sought, consists of two or more mahals or shares in two or more mahals, the partition may be effected by the distribution of such mahals, or shares between the co-sharers without imperfect partition of the mahal or shares, or partly by such distribution and partly by imperfect partition, as the Deputy Commissioner may, of his own motion, or on the application of the parties, deem fit. In making the partition referred to in this section, the Deputy Commissioner shall be guided by the provisions of this Chapter so far as they are compatible with the distribution as aforesaid.

Partition may be effected by distribution of mahals.

CHAPTER XI.

VILLAGE-OFFICERS AND PATWARIS.

¹137. The Chief Commissioner may make rules regulating the appointment, remuneration, suspension and removal of lambardars, sub-lambardars ²[mukaddams and patels]:

Power to make rules as to officers.

Provided that, except with the previous sanction of the Governor-General in Council, proprietors, other than malik-makbuzas, shall not be liable to pay, on account of the aggregate remuneration of lambardars or sub-lambardars and mukaddams, a sum exceeding five per cent on the land-revenue which is assessed on their land, or which, when their land is free from revenue, would, in the judgment of the Deputy Commissioner, be assessed on their land if it were subject to assessment.

In framing rules for the appointment under this section of lambardars and sub-lambardars for any mahal, the Chief Commissioner shall have

¹The present Section 136-W was inserted by Section 9 of the Central Provinces Land-revenue Act, 1898 (XII of 1898); the former section, which was inserted as part of Chapter X-A by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), was repealed by the Repealing and Amending Act, 1891 (XII of 1891).

²These words were substituted for the words "and mukaddam" by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), Section 27 (1).

regard among other matters to local custom and hereditary claims, and to entries on the subject in the record-of-rights of such mahal.

'The lambardar of the village shall ordinarily also be the mukaddam. When a lambardar who does not reside in the village is appointed mukaddam thereof, he shall, subject to the approval of the Deputy Commissioner, appoint an agent to perform the duties of a mukaddam. If there are resident co-sharers in the village, the non-resident lambardar shall appoint one of them to be his agent, unless the Deputy Commissioner for special reasons allows him to appoint some other person. If a mukaddam fails within a reasonable time to appoint an agent with the approval of the Deputy Commissioner, the Deputy Commissioner shall himself appoint an agent and shall fix the amount of his remuneration, which shall be paid to him by the mukaddam.

An agent appointed under this section shall be deemed to have the powers conferred on, and to be responsible for performance of the duties prescribed with regard to mukaddams by this Act and the rules made hereunder.

Any fine imposed on such agent for a breach of the provisions of this Act or the rules made hereunder may be recovered from the mukaddam whose agent he is by the Deputy Commissioner.

In a ryotwari village the patel shall ordinarily be the mukaddam.

Notification
No. 4861 of
7th November
1894, as
amended by
Notification
No. 1812,
dated the
31st March
1890, and
Notification
No. 1373,
dated the
28th February
1902.

I. (1) Every lambardar shall be appointed by the Deputy Commissioner of the District or an Assistant Commissioner invested with all the powers of a Deputy Commissioner under Section 11 of the Land-revenue Act, or, in the case of appointments to fill vacancies caused by death or transfer, by an Assistant Commissioner who has passed the Departmental Examination in Revenue Law and Procedure by the lower standard and has been empowered by the Deputy Commissioner in this behalf, or by a Tahsildar similarly empowered, provided

¹ This and the three following paragraphs of Section 137 were substituted for the last paragraph by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), Section 27 (2). That paragraph was as follows:—

"In every village in which there are resident malguzars, one of such malguzars shall be the mukaddam."

(Part IV—Of Revenue Administration—Chapter XI—Village-officers and Patwaris—Rules under Section 137.)

that officers not invested with all the powers of a Deputy Commissioner shall not exercise their powers of appointment so as to increase the number of lambardars in a mahal.

(2) In selecting a lambardar, the Deputy Commissioner or other officer exercising the power of appointment shall be guided by the following instructions:—

- (a) if the record-of-rights of a mahal prescribe the manner in which the lambardar is to be selected, the selection shall be made after that manner;
- (b) if the record-of-rights contains no provisions applicable to the case, the appointing officer in selecting a person for the office shall have regard to—
 - (i) local custom, if any be ascertainable;
 - (ii) hereditary claims, and to the interest possessed in the mahal by candidates;
 - (iii) the wishes of the co-sharers whom the lambardar is to represent.

Explanation 1.—A sadar malguzar and the managing gaontia of a village in the (old) Sambalpur District are lambardars. If there is only one malguzar or gaontia to a mahal, he is to be considered lambardar.

Explanation 2.—In these rules the term lambardar includes sub-lambardar.

NOTE.—Under Section 15 of the Act, Deputy Commissioners have been empowered to delegate to Assistant Commissioners who have passed the Departmental Examination in Revenue Law and Procedure by the lower standard and to Tahsildars the exercise of the powers connected with the appointment of lambardars in vacancies caused by death or transfer of property, provided that the number of lambardars in the mahal is not increased.

II.—There shall be at least one lambardar for each mahal. The Deputy Commissioner may appoint lambardars to any new mahal which may be formed, and, when needful, may add to or reduce the number of lambardars existing in a mahal at the time of the issue of these rules: provided that reductions shall be made only when a lambardar dies or his office becomes otherwise vacant. In vacancies caused by death or transfer of property, the appointment may be made by an Assistant Commissioner or a Tahsildar empowered by the Deputy Commissioner, provided that the total number lambardars in the mahal is not increased.

III.—Proceedings for the appointment of a lambardar shall in all cases commence by a proclamation calling on persons claiming the appointment, or claiming to nominate for the appointment, to appear before the Deputy Commissioner or Assistant

*Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Rules
under Section 137.)*

Commissioner or Tahsildar empowered to dispose of such cases, or such other officer as the Deputy Commissioner may appoint, on a date which shall not be less than 30 days from the date on which the proclamation may be posted up in the village. Tahsildars, not empowered to dispose of such cases finally, will report them for the orders of the Deputy Commissioner. On the date named in the proclamation the officer may, if empowered in this behalf, after such enquiry as he may deem necessary, issue orders directing the appointment of the lambardar; if not so empowered, he shall report the case for the orders of the officer by whose direction such enquiry was held.

IV. When a lambardar is a minor or a female, or unfit through any infirmity of body or mind to perform the duties of the office in person, the Deputy Commissioner or other officer exercising the power of appointment of lambardars shall appoint a gomasta who, if possible, shall be a member of the proprietary body: provided that no gomasta shall be appointed for a female lambardar who, in the appointing officer's opinion, is able to perform the duties of the office.

V.—A Deputy Commissioner may remove a lambardar from office—

- (a) on the application of a member of the proprietary body;
- (b) for bad character or gross misconduct.

VI.—In districts other than Sambalpur and in the proprietary villages of that district, the lambardar shall be entitled to receive an allowance fixed at five per cent. on the land-revenue which is assessed on the mahal or part of the mahal for which he has been appointed, or which, if the mahal or part of the mahal is free from revenue, would, in the judgment of the Deputy Commissioner, be assessed on the mahal or part of the mahal if it were subject to assessment.

VII.—In the Gaontiahi villages of the Sambalpur district the lambardar-gaontia is entitled to receive remuneration as lambardar from the sharers and all holders of bhogra at the rate of $3\frac{1}{4}$ annas per rupee on the revenue value of the whole of the bhogra, exclusive of that portion of it which is held by him in severalty as a sharer: provided that—

- (1) the amount of any assessment made payable to Government on the bhogra shall be deducted from the revenue value of the whole of the bhogra before the remuneration is calculated;

(Part IV—Of Revenue Administration—Chapter XI—Village-officers and *Patwaris*—Rules under Section 137.)

- (3) if the lambardar holds, as such, any bhogra land which he would not be entitled to hold merely as a sharer, the revenue value of such land shall be deducted from the amount payable to him under this clause as remuneration.

VIII.—All persons holding the office of lambardar, when these rules come into force, shall be deemed to have been appointed hereunder.

Appointment of Patels in ryotwari villages.

I.—In villages where there is no watandari patel, a managing (mukaddam) patel will be appointed by the Deputy Commissioner and will be liable to dismissal by him. Notification No. 5036 of 15th November 1894.

His tenure will be non-hereditary, and he will be remunerated by a commission on the revenue collected by him at a rate to be fixed by the Deputy Commissioner:

Provided that a managing patel can, by substantially improving his village, earn the grant of a watandari status.

II.—Ryots will be bound to pay their revenue through the patel of their village.

The appointment of mukaddams.

I.—Every mukaddam shall be appointed by the Deputy Commissioner, by an Assistant Commissioner exercising the powers of a Deputy Commissioner, or by an Assistant Commissioner or a Tahsildar empowered by the Deputy Commissioner in this behalf. Notification No. 1812, dated 31st March 1890.

II.—A mukaddam shall be appointed for every village whether it be inhabited or not: provided that in exceptional cases a single mukaddam may, with the sanction of the Financial Commissioner, be appointed for a group of villages.

III.—When the lambardar of a village is a minor or a female or unfit through age or infirmity of body or mind to perform the duties of mukaddam in person, the lambardar-gomasta appointed under Rule IV of the Lambardar Rules contained in Notification No. 4861, dated the 7th November 1894, shall be appointed mukaddam, unless the appointing officers disallows the appointment under the provisions of Rule VI below: provided that if the lambardar is a

NOTE.—Under Section 15 of the Act, Deputy Commissioners have been empowered to delegate to Assistant Commissioners who have passed the Departmental Examination in Revenue Law and Procedure by the lower standard and to Tahsildars the exercise of the powers connected with the appointment of mukaddams and mukaddam-gomashtas.

(*Part IV—Of Revenue Administration—Chapter XI—Village-officers and Patwaris—Rules under Section 137.*)

female and the appointing officer considers that she can perform the duties of mukaddam, she may be appointed mukaddam, subject to the approval of the Commissioner.

IV.—If the appointing officer considers that a lambardar otherwise qualified for the post of mukaddam is, owing to bad character, unfit for the post, he may pass him over and appoint another person.

V.—The Commissioner's sanction is necessary to the appointment under these rules to the office of mukaddam of any person other than the lambardar or lambardar-gomashta.

VI.—No person shall be approved by the appointing officer for the post of mukaddam-gomashta who (1) is a minor or a female, (2) or is in the appointing officer's opinion of bad character, (3) or is in the appointing officer's opinion unfitted by infirmity of body or mind to discharge the duties of the post, (4) or is not permanently resident in the village if it is an inhabited village, (5) or fails to come up to any educational standard prescribed by the Chief Commissioner for mukaddam-gomashtas.

VII.—When in a village there are more lambardars than one qualified for appointment to the office of mukaddam, the appointing officer shall select the one to be so appointed: Provided that a resident lambardar shall be appointed in preference to a non-resident lambardar: Also provided that with the Commissioner's sanction more than one mukaddam may be appointed to a village.

The dismissal of mukaddams.

VIII.—The Deputy Commissioner may dismiss a mukaddam for disobedience of orders, neglect of duty, incompetence or bad character: Provided that no mukaddam shall be dismissed until he has had an opportunity of showing cause in writing against such dismissal.

IX.—When from any cause a person other than the lambardar has been appointed mukaddam and such cause has ceased to exist, the Deputy Commissioner may dismiss the mukaddam and appoint the lambardar in his place.

X.—Every dismissal of a mukaddam shall be reported to the Commissioner for confirmation.

X-A.—Any mukaddam who is declared, on his own application, to be incapable of managing his property under the provisions of Section 6, Sub-section (1), of the Central Provinces Court of Wards Act, 1899 (XXIV of 1899), shall be deemed to have resigned his office as mukaddam and shall, unless the Deputy Commissioner otherwise directs, forthwith vacate the office.

(Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Rules
under Sections 137 and 138.)

The remuneration of mukaddams.

XI.—When the lambardar is mukaddam, he shall not be entitled to any extra remuneration on that account.

XII.—When the mukaddam is other than the lambardar, the Deputy Commissioner shall fix the amount which the lambardar shall pay the mukaddam as remuneration. In fixing this amount the Deputy Commissioner shall have regard to the amount of work which the mukaddam has to perform : Provided that no lambardar shall be compelled to pay the mukaddam as remuneration a sum exceeding five per cent on the revenue which is assessed upon the village or which, if the village is free from revenue, would, in the judgment of the Deputy Commissioner, be assessed on the village if it were subject to assessment.

In villages where there is a sub-lambardar as well as a lambardar, the Deputy Commissioner shall decide according to the circumstances of the case by whom the mukaddam is to be paid.

138. It shall be the duty of every lambardar and sub-lambardar—

Duties of
lambardar.

- (a) to collect and pay into the Government treasury so much of the land-revenue as may, under section 71, be payable through him, either solely or jointly with other lambardars or sub-lambardars ;
- (b) to collect and pay to the mukaddam, or into the Government treasury, as the Deputy Commissioner may direct, all sums of money payable through him, either solely or jointly with other lambardars or sub-lambardars, by the proprietors whom he represents, on account of the remuneration of the mukaddam, or village-watchmen, or on account of any expenses which the mukaddam is authorized to recover from the lambardars or sub-lambardars of his village ;
- (c) to assist the mukaddam in obtaining all particulars which he is bound to enter in the annual village papers, or to report under this Act.

(*Part IV Of Revenue Administration—Chapter XI—Village-officers and Patwaris—Sections 139, 140 and 141.*)

Lambardars
may recover
fees and
other charges
from pro-
prietors.

139. Together with the land-revenue, lambardars and sub-lambardars may recover from the proprietors whom they respectively represent—

(a) any remuneration to which they are entitled as such ; and

(b) the sum which, under section 138, they are bound to pay to mukaddams :

Provided that no such recovery shall be made from malik-makbuzas paying a percentage which includes remuneration to mukaddams and lambardars.

Deputy Com-
missioner
may alter
channel
through
which malik-
makbuza
pays revenue.

140. On the application of any malik-makbuza or other like holder of land, or of the lambardar or sub-lambardar through whom such malik-makbuza or other holder of land pays the revenue assessed on his holding, the Deputy Commissioner may, for sufficient cause shown, order that such revenue be paid through any other lambardar or sub-lambardar, or that it be paid into the Government treasury.

Effect of
order for
payment of
revenue
direct to
Government.

When the Deputy Commissioner orders such payment to be made into the Government treasury, such portion of the percentage fixed under section 64 as the Deputy Commissioner, subject to the control of the Chief Commissioner, may determine, shall be so paid, and the malik-makbuza or other person shall pay the rest to the mukaddams on account of their fees and the other village-expenses.

Duties of
mukaddams.

141. It shall be the duty of every mukaddam—

(a) to control and superintend the village-watchmen ; to report their deaths or absence from duty ; to maintain them in the possession of any lands appertaining to their office ; to recover and pay to them any cash allowances to which they may be entitled ; and to take such steps as may be necessary to compel them to perform their duties ;

(Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Section
141.)

- (b) to furnish reports regarding the state of his village, at such places and times as the Deputy Commissioner fixes in this behalf ;
- (c) to report and, if possible, to prevent encroachments on the public paths and roadways in his village ;
- (d) to preserve such stations and marks erected in his village by Government surveyors as may be made over to his care ;
- (e) subject to any rules issued by the Chief Commissioner, to keep his village in good sanitary condition ;
- (f) to report violations of any rules which the Chief Commissioner may make for the preservation of underwood, forests and trees growing on the village-lands, and for securing to persons entitled to cut wood and enjoy other privileges in the waste-lands of the village the rights to which they are entitled ;
- (g) to collect, or aid in the collection of, all payments due to Government in his village ;
- (h) to report all births and deaths taking place in his village.

The Chief Commissioner may make rules—

- (1) adding to the list of duties which a mukaddam is required to perform under this section ; and
- (2) regulating the liability of persons residing in any village for charges necessarily incurred by mukaddams in the performance of the duties specified in clause (e) in respect of such village, and for apportioning such charges among such persons ; and
- (3) determining the officers to whom reports under this section shall be made.

(*Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Rules
under Section 141.*)

Notification
No. 2994-293
of 13th May
1891, as
amended by
Notification
No. 4376,
dated the 3rd
July 1905.

1.—The sources of the supply of drinking water in the village must be kept pure:—

- (a) If the water-supply is drawn from wells, one or more of these shall be set apart for drinking purposes. A parapet at least two feet high must be made round the wells so set apart. No one shall be allowed to wash clothes or to bathe at any such well or to cast any dirty vessel into it; nor shall any one be permitted to pile filth or rubbish on, or to otherwise defile, the ground within 20 paces of the well. Wells used for drinking purposes must be cleaned out once in every year just before the rains.
- (b) If the water-supply is drawn from a nalla or river the banks of the nalla or river must be kept clean. All small nallas leading into it must also be kept clean, as far as possible. Water wanted for drinking should be taken from up the stream above the village; and people should wash their clothes and bathe, &c., *down* the stream, below the place from which water for drink is taken.
- (c) When the water-supply is from tanks, one of these shall be reserved for drinking purposes. Its banks must be kept clean and no one should be allowed to wash clothes, to bathe, or to water cattle in it. If there is only one tank, its banks must be kept clean, and wells should (if possible) be sunk below the *bund* of the tank. Drinking water should then be drawn from these wells, and not from the tank itself.
- (d) No corpses shall be buried in or near the bed of any tank or stream.
- (e) No hemp or other vegetable matter shall be steeped in wells or tanks which are used for drinking purposes, or in streams, except at the distance of at least 200 yards down-stream from the village site.

II.—The mukaddam must mark out on each side of his village the limits beyond which people must go for purposes of nature. These limits ought to be at least 50 yards from the outermost houses of the village. This rule will not be enforced in the case of infants or sick or infirm persons.

(Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Rules
under Section 141.)

III.—The streets, lanes and open places in the village must be kept clean. Rubbish and manure collected from them by the village sweepers shall be conveyed daily outside the village to places appointed by the mukaddam and be there pitted.

IV.—The household refuse, stable litter and cattle droppings accumulating in private premises shall be daily thrown by the owners into manure pits dug by them for the purpose, or other receptacles within their enclosures: Provided that the mukaddam may direct the closing or cleaning out of any such pit or receptacle which is a nuisance to the neighbourhood. Failing the provision of pits or receptacles, as directed in this rule, all such rubbish, litter and cattle droppings shall be removed outside the village site to the public manure pits, or to private manure pits, if there be any, or to the fields as the owners may prefer.

V.—The skinning or cutting up of cattle and the burial of carcasses in or near the village site is prohibited. The mukaddam must fix places for these purposes and notify to the inhabitants that the use of other places for these purposes renders them liable to punishment.

VI.—Once a year, in October, after the rains have ended, the mukaddam shall have the village cleared of all weeds and jungle, which together with any rubbish that may not have been removed to the manure pits shall be collected outside the village and burned.

Additional duties imposed on mukaddams under section 141 (1) of the Act—

- (i) to assist the village watchmen in realizing any dues in cash or kind receivable by them from the cultivators or other inhabitants of the village;
- (j) to maintain the patwari in the possession of any land appertaining to his office, to recover and pay to him any local cash allowances to which he may be entitled, and to assist him in realizing any dues in cash or kind receivable by him from the cultivators of the village;
- (k) to report or cause to be reported the death of any patwari whether of his own or any other circle resident in the village, and report or cause to be reported whether the village patwari, if a resident in the village, has been absent therefrom for four consecutive weeks;

Notification
No. 4862 of
7th November
1894, as
amended by
Notification
No. 606,
dated the
9th February
1899.

(Part IV—Of Revenue Administration—Chapter XI—Village officers and Patwaris—Rules under Section 141.)

- or, if a non-resident, has failed to visit the village for eight consecutive weeks ;
- (l) to report or cause to be reported forthwith the occurrence in the village of any case of cholera, bubonic plague or small-pox or (when the Deputy Commissioner has either specially or generally so directed) case of epidemic cattle-disease ; to report also any unusual or suspicious mortality among rats within the village ;
 - (m) to preserve all stations, and marks of the Trigonometrical, Topographical, Revenue, or Forest Surveys erected in the village or on its boundaries, and to report or cause to be reported any injury done to such marks or their removal or destruction ;
 - (n) to report or cause to be reported any unauthorised cutting of wood or removal of forest produce and any unauthorised grazing of cattle in any Government forest in the vicinity of the village by persons resident in the village ;
 - (o) to assist the patwari and all Revenue or Survey Officers of Government in all matters connected with the survey or settlement of the village and the preparation or testing of the village records, and to cause the attendance of all sharers, cultivators or residents of the village whose presence is required by any such Revenue or Survey Officer ;
 - (p) to assist, upon demand, gazetted officers of Government (or when orders to this effect are issued by the Deputy Commissioner, any other specified class of Government servants) who may visit on duty the neighbourhood of his village, in arranging for the pitching and striking of their tents and in obtaining on payment such supplies as are declared either specially or generally by the Deputy Commissioner to be procurable in the locality. The supplies must be paid for at the retail rates of the nearest market town as determined by a tariff, to be ascertained in case of doubt by the Deputy Commissioner and to refer for the decision of the Deputy Commissioner any dispute as to the amount of such payment ;
 - (q) to report when he has from any cause failed or been unable to perform any of the duties im-

(Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Rules
under Section 141.)

posed upon him by section 141 of the Act or by any of the foregoing rules, or by any rule made under clause (e) of section 141 or under sub-section (2) of that section ;

- (r) to forthwith report any information which he may obtain respecting—
- (1) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is mukaddam ;
 - (2) the resort to any place within, or the passage through, such village, of any person whom he knows or reasonably suspects to be a thug, robber, escaped convict or proclaimed offender ;
 - (3) the commission of, or intention to commit, in or near such village, any non-bailable offence or any offence punishable under section 143, 144, 145, 147, or 148, of the Indian Penal Code ;
 - (4) the occurrence in or near such village of any sudden or unnatural death or of death under suspicious circumstances ;
 - (5) the commission of or intention to commit, at any place out of British India near such village, any act which if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ;
 - (6) the departure from his home of any convict or non-convict suspect whose name is entered in the police surveillance register, together with his destination (if known) ;
 - (7) the advent in his village of any suspicious stranger together with any information which can be obtained from questioning him regarding his antecedents and place of residence ;
 - (8) any matter likely to effect the maintenance of order or the prevention of crime or the safety of person or property, respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate for information ;

(*Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Rules
under Section 141.*)

Notification
No. 2732-294,
dated the 29th
April 1891.

Notification
No. 4197,
dated the
14th Septem-
ber 1897.

- (s) to report ejectment of tenants and enhancement of rent otherwise than as provided for under the law (this notification applies to the Seoni and Harda Tahsils of the Hoshangabad District only);
- (t) in times of scarcity or famine, and when so ordered by general or special order by the Deputy Commissioner—
- (i) to supply such food as may be necessary to any starving wanderer who may come to his village and to send such wanderer if, or when, he is fit to move, to the poor-house or relief work which is nearest to his village; and to render such account of the expenditure from the advances or other monies incurred by him in this behalf as the Deputy Commissioner may require;
- (ii) to prepare, with the assistance of the patwari, a correct register of persons residing in his village, who from their circumstances are likely to require gratuitous relief, and to include in such register the following classes of persons if they have no one who is able and bound by the custom of the country to support them:—
 - (1) idiots and lunatics,
 - (2) cripples,
 - (3) blind persons,
 - (4) all who from age or physical weakness are incapable of earning their living,
 - (5) all persons whose attendance on the sick or on infant children, in their own homes is absolutely necessary;
- (iii) to organize a system of private charity for the relief of persons whose names are entered in the register abovementioned; and when the distress is such that it cannot be relieved by private charity, to make an application for funds to the Deputy Commissioner, through such officer as may have been appointed for this purpose in the local area in which the village is situated, and to carry out such instructions as he may receive from the Deputy Commissioner or such officer for the supply of money or grain required to give the necessary relief;
- (iv) to assist in the distribution of relief in money or grain in his village, and to take such action as may ensure that it reaches the proper recipients;

(Part IV—Of Revenue Administration—Chapter XI—Village-officers and Patwaris—Rules under Section 141.)

- (v) to assist in the management of any children's kitchen or poor-house established in his village, or for the relief of residents thereof;
- (vi) to assist the officers of the Irrigation Department in protecting from injury all Government irrigation works within his village and to report when any such injury has been caused.

The reports required to be submitted by mukaddams Rules under this section or any of the rules framed thereunder Section 141 shall be made as follows :— (3).

Nature of report.	Officer to whom to be made.
1. Under clause (a) of section 141 (death or absence of village watchmen).	The Tahsildar.
2. Under clause (b) of section 141 (regarding state of village).	The officer in charge of the nearest police-station or out-post, unless the Deputy Commissioner directs otherwise.
3. Under clause (c) of section 141 (encroachment on roads).	The Tahsildar.
4. Under clause (f) of section 141 (violation of Forest Regulations).	Do.
5. Under clause (h) of section 141 (births and deaths).	The officer in charge of the nearest police-station or out-post.
6. Under rule (k) above (death or absence of patwari).	The Tahsildar or the Revenue Inspector of the circle.
7. Under rule (l) above (cases of cholera, bubonic plague, small-pox or cattle disease).	The officer in charge of the nearest police-station or out-post.
8. Under rule (m) above (injury or removal of survey marks).	The Tahsildar or the Revenue Inspector of the circle.
9. Under rule (n) above (unauthorised cutting or grazing in Government forests).	Tahsildar or Forest Officer of the circle.
10. Under rule (g) above (failure or inability to perform any of his own duties).	The Tahsildar.
11. Under rule (r) above (reports regarding matters likely to affect the maintenance of order or the prevention of crime).	The officer in charge of the nearest police-station or out-post or a magistrate, whichever may be nearer.
12. Report of ejectment of tenants and the enhancement of rent otherwise than as provided under the law in Seoni and Harda Tahsils of Hoshangabad District.	Deputy Commissioner of the District.
13. Report of injury done to Government irrigation works.	The Irrigation Officer in charge of the work.

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(Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Rules
under Section 141.)

Notification
No. 636,
dated the 6th
February
1895.

I.—If any person is required by the mukaddam, in accordance with the rules issued under Notification No. 2994-293, dated the 13th May 1891, to perform, or refrain from performing, any act and fails to comply with that order, the mukaddam shall report to the Deputy Commissioner and ask for authority to incur such expenditure as may be required to remedy such failure. And thereupon the Deputy Commissioner shall cause a local enquiry to be made by a Revenue Officer not below the rank of a Tahsildar, and may, by order in writing, authorize the mukaddam to incur an expenditure, the amount of which shall be stated in the order, and to recover the same from the person so failing.

Rules under
Section 141
(2) of the Act

II.—If the mukaddam finds that an establishment, temporary or permanent, is necessary to keep his village in good sanitary condition, he shall make a report to the Deputy Commissioner, who, after a local enquiry made by himself or by an Assistant Commissioner, may by order in writing—

(a) authorize the mukaddam to entertain an establishment, the nature and the cost of which and the period for which it shall be entertained, shall be stated in the said order; and

(b) direct that the cost of the said establishment shall be levied from the cultivators residing in the village by a rate on their rent, and from non-cultivators by a house tax; the amount of the said rate or tax to be fixed so as to cover as nearly as possible after allowing for short collections the cost of the establishment and no more, and with due regard to the means of the persons so rated or taxed.

III.—If any mukaddam finds that it is necessary to construct, repair or improve any well, tank or reservoir, for the supply of pure drinking water, he shall report to the Deputy Commissioner the necessity for the work and its cost, and the Deputy Commissioner, after a local enquiry made by a Revenue Officer not below the rank of a Tahsildar, regarding the necessity and the cost of the same may, by an order in writing—

(a) authorize the carrying out of the work so far as he may think necessary and possible, with due regard to the means of the villagers, at a cost to be determined by him and stated in the order; and

(b) direct that the cost be recovered from the residents of the village in the same manner as provided in rule II (b);

(Part IV—Of Revenue Administration—Chapter XI—Village-officers and Patwaris—Rules under Section 141 and Sections 141, 142, 143 and 143-A)

Provided that the Deputy Commissioner may, by order in writing, exempt from payment any person who, in his opinion, will not derive benefit from the work.

IV.—A Deputy Commissioner passing any order under rules II and III shall at once forward a copy thereof to the Commissioner for information; and the Commissioner may pass such order thereon as he shall think fit.

V.—The reports made by mukaddams under these rules shall be on unstamped paper and may be forwarded by post bearing.

VI.—If necessary, the amount payable by any person under these rules will be recovered as provided in section 158 of the Act.

142. When, by any enactment for the time being in force, any public duties are imposed on, or public liabilities are declared to attach to, landholders, their managers and agents and the like such duties shall be deemed to be imposed on, and such liabilities shall be held to attach to, mukaddams appointed under this Act :

Liabilities imposed by law on landholders to attach to mukaddams.

Provided that nothing herein contained shall discharge landholders, their managers or agents or the like from any liabilities imposed upon them by law.

143. Every mukaddam may recover from the lambardars, or sub-lambardars of the village to which he is appointed, his own remuneration, together with any expenses necessarily incurred in the performance of his duties.

Power of mukaddams to recover certain expenses incurred.

143-A. It shall be the duty of every patel, in addition to his duties as mukaddam,—

Duties of patel.

- (a) to collect and pay into the Government treasury the land-revenue assessed on the survey-numbers or holdings of his village;
- (b) in respect of his village to report the abandonment of survey-numbers or holdings, the encroachment of ryots on waste land not included in their survey numbers or holdings, and the non-payment of revenue or any facts which indicate that default will be made in the payment thereof;

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(Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Sections
143 and 144.)

(c) to assist the village-watchman of his village in the recovery of dues to which he is entitled;

(d) to prevent the unauthorized cutting of wood in Government forests included in or adjoining his village, and to report any such unauthorized cutting in such forests.

Chief Commissioner may make rules as to patwaris.

144. The Chief Commissioner may make rules—

(a) providing for the appointment of patwaris in tracts where they have not been already appointed;

Notification No. 1511 of 19th March 1890.

NOTE.—Patwaris shall be appointed for plots of land in which proprietary rights have been acquired under the Waste Land Sales Rules, and which have been declared to be villages under section 4, sub-section (8), of the said Act; such patwaris being, whenever possible, those in charge of adjoining circles of malguzari villages, and being remunerated by proprietors and tenants at such rates and in such modes as may be in force in malguzari villages in the vicinity: provided that if for any reason special patwaris have to be appointed, their remuneration may be fixed at such higher rates as may be approved by the Chief Commissioner, not exceeding in the case of proprietors, six per cent on the revenue assessable on the village.

¹ (b) regulating the manner in which patwaris are to be selected; prescribing the conditions under which they may be appointed; and fixing the limits of their circles and the nature, mode and amount of their remuneration;

(c) prescribing the conditions under which substitutes may be appointed for persons having hereditary claims to the office of patwari, when such persons are unable to act;

¹ (d) prescribing the fines which may be imposed on patwaris and their substitutes for neglect of their duty, and stating the circumstances under which they may be suspended or removed.

NOTE.—The rules under this section have been printed as an Appendix to Revenue Book Circular III—1.

¹ These clauses were originally clauses (a), (b) and (c) respectively. They were re-lettered as they now stand by section 29 (2) of the Central Provinces Land-revenue Act, 1889 (XVI of 1889), printed, Central Provinces Code, Edition 1891, page 279, on the insertion of the present clause (a) by sub-section (1) of that section.

(Part IV—Of Revenue Administration—Chapter XI—Village-officers and Patwaris—Sections 145, 146, 147 and 147-A.)

145. [Rules by the Chief Commissioner for guidance of Deputy Commissioners.] Rep. by Act XVI of 1889, section 30.

146. The Chief Commissioner may make rules prescribing the duties of patwaris—

- (a) towards the Government : and may in such rules determine the registers, returns or other papers which they shall keep or furnish, the forms and language in which such registers and returns are to be prepared, the mode of their preparation and attestation, and the dates on which they are to be furnished ;
- (b) towards the members of the village community * * *

All records and papers which patwaris are required to prepare or keep by any rule made by the Chief Commissioner under this section shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872, and to be the property of Government.

NOTE.—The rules under this section have been printed as an Appendix to Revenue Book Circular III—1.

147. Patwaris shall produce at all reasonable times, for the inspection of all persons interested therein, all records and papers which they are so required¹ to prepare or keep, and shall allow such persons to make copies of such records and papers.

² 147-A. The Chief Commissioner may make rules regarding village-watchmen, and may in the rules—

- (a) provide for and regulate their appointments [* punishment], suspension or

¹The words "and may in such rules fix the remuneration, if any other than the fixed emoluments of their office, which the patwaris may demand in respect of the performance of such duties" were repealed by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 31.

² That is by section 146.

³ Section 147-A was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 33.

⁴ This word "punishment" was inserted by section 10 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

(Part IV—Of Revenue Administration—Chapter XI—Village-officers and Patwaris—Section 147-A and rules thereunder.)

removal, prescribing the number of village-watchmen who may hold office at one time in a single village, and providing for the appointment of a single village-watchman for two or more villages where such villages would be unable to support separate village watchmen;

(b) determine the character and amount of the remuneration which village-watchmen shall be entitled to demand from the members of the village community;

(c) define the duties and the mode of supervision of village-watchmen.

(a)—*The appointment, suspension and removal of village-watchmen.*

Notification No. 4932 of the 10th August 1891, as amended by Notification No. 4367, dated 29th September 1899, and No. 4211, dated 21st September 1899.

1. There shall be at least one watchman for every inhabited village, unless where, with the sanction of the Commissioner, a group of small contiguous villages is placed in charge of a single watchman. Every such group shall be treated as a village, for the purpose of these rules.

2. The number of watchmen holding office in the village shall be as fixed at the last preceding Settlement: Provided that no arrangement shall continue under which a watchman is liable to be periodically displaced by another who claims to share in the office. In such cases, the Deputy Commissioner shall decide who is to be recognized as watchman for the purposes of these rules: Provided also that, with the previous sanction of the Commissioner, the Deputy Commissioner may modify the arrangements made at Settlement, so as to reduce or increase the number of watchmen, or to appoint additional watchmen to villages in charge of single watchman, whenever this is necessary in order to raise the number of houses in charge of a watchman to a minimum of 50 or to reduce the number of houses to a maximum of 200.

3. When, under arrangements made at the last preceding Settlement, the duties imposed on village-watchmen by these rules are shared by two persons, some duties being performed by one and other duties by the other, the Deputy Commissioner, with the previous sanction of the Commissioner, may declare which of the two is to be the

(Part IV—Of Revenue Administration—Chapter
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 Rules under Section 147-A.)

village-watchman for the purpose of these rules, and may modify any distribution of remuneration between the two which was made at Settlement.

4. No person shall be eligible for the post of village-watchman who—

- (1) is a female ;
- (2) is under 18 years of age ;
- (3) is of unsound mind ;
- (4) is, in the opinion of the Deputy Commissioner, of bad character ;
- (5) is, in the opinion of the Deputy Commissioner, physically unfit to perform the duties of the post.

5. The appointment of village-watchmen shall rest with the Deputy Commissioner: Provided that in zamindaris the zamindar may nominate to a vacancy, and the Deputy Commissioner shall appoint the person so nominated if he be qualified in accordance with rule 4.

6. On a vacancy occurring in a post of village-watchman, the Deputy Commissioner shall appoint a successor from the family of the previous incumbent, the nearest relative being selected who is eligible under the rules: Provided that, if the vacancy be caused by the dismissal of the previous incumbent for bad character, misconduct or disobedience, and the effect of the dismissal would be lost were a member of his family appointed to succeed him, the Deputy Commissioner may appoint an outsider under the procedure prescribed in the rule next following:

Provided also that if the nearest relative is disqualified only on the ground of youth, the Deputy Commissioner may appoint him to be village-watchman, in which case the Deputy Commissioner shall appoint a *gomashtha* and may fix the amount of the *gomashtha*'s remuneration.

Explanation.—For the purpose of this rule, "family" shall be held to include relatives by the female as well as by the male side and also connections by marriage.

7. If no eligible member of the previous incumbent's family is forthcoming, or it has been determined to appoint an outsider under the proviso to the preceding rule, the Deputy Commissioner may call upon the mukaddam of the village to nominate a candidate within 15 days. If the mukaddam fails to nominate or nominates a candidate who is ineligible in accordance with rule 4, the Deputy Commissioner shall proceed to make the appointment himself.

Explanation.—If the village-watchman's charge includes more than one village the mukaddams of all villages included in the charge should be called upon to nominate jointly.

(Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Rules
under Section 147-A.)

8. A village-watchman may be suspended or removed by the Deputy Commissioner on the report of the mukaddam or of his own motion—

- (1) on the ground of any one of the disqualifications mentioned in rule 4;
- (2) for wilful breach of rule;
- (3) for neglect of duty;
- (4) for alienation of service land;
- (5) generally for misconduct.

(b) *Of the remuneration of village-watchmen.*

9. The remuneration of village watchmen shall not ordinarily be less than Rs. 48 per annum. In malguzari villages it shall be provided by a rate not exceeding 1 anna in the rupee, to be assessed in the manner laid down in the Settlement Code on the rental value or rental of land held by malguzar and tenants, and, with the sanction of the Commissioner, by a rate to be assessed on non-agriculturists, who will be divided for this purpose into three classes :—

- (1) Artizans of the higher class and shop-keepers.
- (2) Those who pay income-tax up to Rs. 20 per annum.
- (3) Those who pay income-tax of more than Rs. 20 per annum.

The maximum annual rates assessable on non-agriculturists shall be as follows :—

Class 1	...	...	Annas 4
Class 2	...	...	Re. 1
Class 3	...	...	Rs. 2

Provided that the malguzar shall be entitled to deduct from his contribution the rental value of any service land held by the watchman. In ryotwari villages Government will contribute at least one-fourth of the remuneration either by cash payment or remission of land revenue on service land held by the watchman and the balance will be provided by a rate on the revenue of land held by the patel and ryots not exceeding one anna in the rupee of revenue.

All non-agriculturists of the classes specified above are liable to be assessed, but it will generally be unnecessary to levy the rate except in villages in which non-agriculturists are an important class, or in which sufficient remuneration cannot be provided by a reasonable rate on agriculturists. The rate both on agriculturists and non-agriculturists shall be fixed at Settlement and entered in the wajib-ul-arz of the village. Provided that if during

*(Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Rules
under Section 147-A.)*

the currency of a Settlement the remuneration so provided appears insufficient and can be increased without exceeding the maxima fixed by this rule, or if, for any reason, it appears advisable at any time to assess a rate on non-agriculturists who have not previously been so assessed, it shall be competent for the Deputy Commissioner, with the previous sanction of the Commissioner, to revise the rates of remuneration so as not to exceed the maxima herein prescribed, and to impose an assessment on non-agriculturists. The revised assessment shall be subject to the confirmation of the Commissioner and shall take effect from such date as he may direct.

9-A. Wherever the remuneration of a village-watchman provided under the *wajib-ul-arz* of the last preceding Settlement consists of dues payable in kind, and such dues are not paid to the village-watchmen before the date fixed for the land-revenue instalment next following the harvest to which they relate, they shall be convertible into cash at the market rates current.

For the purposes of this rule the current market rates shall be deemed to be the retail prices prevailing at the head-quarters of the *tahsil* in which the village is situated on the date on which such revenue instalment falls due.

10. When a village-watchman is appointed under these rules to a village which did not previously maintain one, the Deputy Commissioner, with the previous sanction of the Commissioner, may fix the nature and amount of the contributions which are to be made by the members of the village community towards the remuneration of such village watchman, and may also fix the manner in which such contributions may be collected and paid. The nature of such contributions and the rates at which they are to be paid shall, as far as possible, conform to those in force in neighbouring villages in which a village-watchman has been maintained since the last preceding Settlement.

11. The Deputy Commissioner may order a deduction to be made from the remuneration payable by the village to a village-watchman, on the ground of his misconduct or disobedience, and may direct that the amount so deducted shall be paid by the village watchman in cash within a stated time: Provided that, except with the sanction of the Commissioner, the amount so deducted at any one time shall not exceed Rs. 5.

(c)—Of the duties of Village-watchmen.

12. It shall be the duty of the village watchman—

- (i) to reside in his village, or if he be in charge of more than one village, in such village as is

(Part IV—Of Revenue Administration—Chapter XI—Village-officers and Patwaris—Rules under Section 147-A.)

- appointed for his residence by the Deputy Commissioner, and not to absent himself for a longer period than 24 hours without the Deputy Commissioner's permission ;
- (ii) to keep watch and ward over the houses and property of the villagers, performing for the purposes such patrol as may be prescribed by the Deputy Commissioner ;
 - (iii) to arrest and convey to the Police station or out-post of the circle any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender ;
 - (iv) to assist in the private defence of person or property in accordance with Section 97 of the Penal Code, and in the arrest and conveyance to the Police station or out-post of the circle of any person liable to arrest under this section or under section 59 of the Criminal Procedure Code ;
 - (v) to report immediately to the mukaddam or mukaddam-gomashta of the village (if present in the village at the time) and then to the officer in charge of the Police station or out-post of the circle—
 - (a) the permanent or temporary residence within the village of any notorious receiver or vendor of stolen property ;
 - (b) the resort to any place within the village, or the passage through the village, of any person whom he knows or reasonably suspects to be a thug, robber, escaped convict or proclaimed offender, and the movements of wandering gangs through or in the vicinity of his village ;
 - (c) the commission of or intention to commit any non-bailable offence within or near the village or any offence punishable under sections 143, 144, 145, 147 or 148 of the India Penal Code and the arrival in the village of a convicted thief or of a suspicious stranger ;
 - (d) the departure from his home of any convict or non-convict suspect whose name has been entered in the police surveillance register together with his destination (if known) ;

(Part IV—Of Revenue Administration—Chapter
XI—Village-officers and Patwaris—Rules
under Section 147-A.)

- (e) the advent in his village of any suspicious stranger, together with any information which can be obtained from questioning him regarding his antecedents and place of residence;
- (f) the occurrence within the village of any sudden or unnatural death or of any death under suspicious circumstances;
- (g) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460;
- (h) any matter likely to effect the maintenance of order or the prevention of crime or the safety of person or property, respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information;
- (vi) to report immediately to the mukaddam or mukaddam-gomashta of the village (if present in the village at the time) and then to the officer in charge of the Police station or out-post of the circle, the occurrence of any cases of cholera, bubonic plague or small-pox; or of any case of epidemic cattle disease;
- (vii) to report to the officer in charge of the police station or out-post of the circle, at such periods as may be prescribed by the Deputy Commissioner, the occurrence of all births and deaths within the village;
- (viii) if directed to do so by the Deputy Commissioner, to report deaths of village cattle from disease or the attacks of wild beasts;
- (ix) to attend at the police station or out-post of the circle on such dates as may be prescribed by the Deputy Commissioner and to obey the orders of the officer in charge of such police station or out-post in all police matters;
- (x) to assist the mukaddam or mukaddam-gomashta of the village in the performance of the duties imposed on him connected with the maintenance of survey marks, the reporting of the unauthorized use of Government forest lands, the rendering of assistance to the Patwari and Revenue and Survey officers, the

(Part IV—Of Revenue Administration—Chapter
XI—Village officers and Patwaris—Rules
under Section 147-A.)

- procuring of supplies for Government officers,
the protection of irrigation works and enforcing
the rules for village sanitation ;
(xi) generally to assist the *Jambardar* of the village
and Government officers visiting the village
in the discharge of their duties.

13. When under terms of the *wajib-ul-arz* of the last preceding Settlement, any functions other than the above, such as the guarding of granaries and the weighing of grain in transactions between landlord and tenant, are imposed on a village-watchman, for which special remuneration is provided, it shall be the duty of such village watchman to perform such functions: Provided that, with the previous sanction of the Commissioner, the Deputy Commissioner may cancel or curtail the functions performed by village-watchmen under this rule, and may disallow any special remuneration they may receive in return for the performance of such functions.

14. When there are two or more watchmen in a village, they shall be jointly and severally responsible for performing the duties laid down by these rules, unless the Deputy Commissioner defines the extent of each watchman's responsibility.

Notification
No. 5035,
dated the 5th
November
1894.

NOTE I.—The following rule determines the character and amount of remuneration which village-watchman in regularly settled *ryotwari* villages shall be entitled to demand from the members of the village community:—

At least one-fourth of the remuneration of the village-watchman shall be contributed by Government either in the shape of a revenue-free survey number or of a drawback from the revenue of the village. The balance of the remuneration payable to the village-watchman shall be realizable from the *patal* and *ryots* at a rate on the revenue payable by them, to be fixed by the Deputy Commissioner, and not exceeding one *anna* per rupee of revenue.

NOTE II.—The insertion of the word "punishment" in clause (a) of section 147-A enables the Chief Commissioner to provide by rule for the infliction of a lesser punishment than suspension or dismissal in the cases of village-watchman guilty of misconduct or disobedience. Under the existing rules for regulating the appointment, conduct and punishment of village watchman, a Deputy Commissioner may suspend or remove village-watchmen in certain cases specified in Rule 8, and by Rule 11 may deduct from his remuneration a sum not to exceed (except with the special sanction of the Commissioner, Rs. 5 at any one time. The levy of a fine out of his general income is now legalized. Village-watchmen are with few exceptions extremely poor, and a small fine only can be imposed on them. In the rare cases in which they are well-to-do, and may without hardship be more heavily fined, the sanction of the Commissioner can always be obtained. The Chief Commissioner does not therefore propose to make any alteration in the rules.

Notification
No. 4834,
dated the
21st July
1905.

NOTE III.—Deputy Commissioners have been empowered under Section 15 of the Central Provinces Land-revenue Act, XVIII of 1881, to delegate to selected *Tahsildars* the exercise of powers connected with the appointment, punishment, suspension and removal of village-watchmen.

Part IV—Of Revenue Administration—Chapter XI—Village-officers and Patwaris—Sections 148, 149 and 150). (Part V—Chapter XII—Miscellaneous—Section 151.)

148. All existing lambardars, sub-lambardars, mukaddams,¹ patwaris and village-watchmen shall, unless the Chief Commissioner in any specified case otherwise directs, be deemed to have been appointed under this Act. Existing officers confirmed.

149. Any sums which lambardars, sub-lambardars, mukaddams² and village-watchmen are entitled to recover or demand under this Chapter may, if the Deputy Commissioner so directs, be recovered in the same manner as an arrear of revenue payable directly to the Government. Lambardars' and other officers' dues recoverable as arrears.

NOTE.—This section does not empower a Deputy Commissioner to recover arrears of remuneration unless such remuneration is payable in money.

150. In each village of the district of Sambalpur all persons holding *sir* land, other than mukaddams, are bound to provide for the due remuneration of the mukaddam of the village; and the Chief Commissioner may make rules for the enforcement of this obligation. Holders of *sir* land in Sambalpur to provide for remuneration of mukaddams.

PART V.

CHAPTER XII.

MISCELLANEOUS.

151. Unless it is otherwise expressly provided in the records of a Settlement or by the terms of a grant made by the Government, the right to all mines, minerals, coals and quarries, and to all fisheries in navigable rivers, **** shall be deemed to belong to Government, and the Government shall have all powers necessary for the proper enjoyment of such rights: Right to mines, quarries and fisheries.

¹ These words were substituted for the words "and patwaris" by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 34.

² These words were substituted for the words "and patwaris" by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 35.

³ The words "and the right to extract sap from all palmyra and coconut trees" were repealed by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 36.

Provided that, whenever in the exercise by the Government of the rights herein referred to over any land the rights of any persons are infringed by the occupation or disturbance of the surface of such land, the Government shall pay to such persons compensation for such infringement, and that the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.¹

Exclusive
jurisdiction
of revenue-
authorities.

152. Except as otherwise hereinbefore provided—

Matters ex-
cepted from
jurisdiction
of Civil
Courts.

- (a) no Civil Court shall entertain any suit instituted, or application made, to obtain a decision or order on any matter which the Governor-General in Council, the Chief Commissioner or a Revenue or Settlement Officer is, by this Act, empowered to determine or dispose of; and in particular
- (b) no Civil Court shall exercise jurisdiction over any of the following matters;
 - (1) any matter provided for in sections 40, 41, 42 and 89 as to waste-lands;
 - (2) the claim of any person to have an assessment offered to, or sub-settlement made with, him;
 - (3) the amount of revenue or rate to be assessed on any mahal, share or portion of a mahal under this or any other Act for the time being in force;
 - (4) questions as to the validity of any engagement with Government for the payment of land-revenue, or of any agreement entered into by superior or inferior proprietors in a Settlement or sub-settlement;
 - (5) claims connected with or arising out of any process enforced on account of refusal to accept the assessment offered in a Settlement or sub-settlement by the Settlement Officer or Deputy Commissioner;

¹ See now the Land Acquisition Act, 1894 (I of 1894).

(Part V—Chapter XII—Miscellaneous—Section 152.)

- (6) the amount of the allowance or rent fixed under section 61 or 62 ;
- (7) the re-distribution according to established custom, by a Settlement Officer, of land comprised in a mahal ;
- (8) the formation of the record-of-rights, the preparation, signing or attestation of any of the documents contained therein, or the notification of Settlement ;
- (9) any matters provided for or referred to in sections 73, 74 or 130 as to lands held or claimed to be held free from revenue, except rights arising under any contract between the Government of India and grantees of land ;
- (10) claims connected with, or arising out of, the collection of revenue, or any process enforced on account of an arrear of revenue, or on account of any sum which is under this or any other Act realizable as revenue ;
- (11) claims to set aside, on any ground other than fraud, sales for arrears of revenue ;
- (12) corrections of entries or revisions of records under sections 120, 121 and 122 ;
- ¹ (13) questions connected with or arising out of the exclusion of a proprietor from forest-land and the direct management of such land under section 24-A ;
- ¹ (13-a) the distribution of the land or allotment of the revenue of a mahal by partition ; or the determination of the rent to be paid by a co-sharer for land held by him after the partition in the mahal or the patti of another co-sharer ;

¹ Clauses (13) and (13-a) were substituted for the original clause (13) of the Central Provinces Land-revenue Act, 1889 (XVI of 1889), Section 37.

(Part V—Chapter XII—Miscellaneous—Sections
152, 153, 154 and 155.)

(14) claims to the office of patwari, lambardar, sub-lambardar, ¹ mukaddam, patel or village-watchman, or in respect of any injury caused by exclusion therefrom, or to compel the performance of the duties thereof ;

(15) claims to compel the performance of any duties imposed by this Act on any Revenue or Settlement Officer.

In all the above cases jurisdiction shall rest with the Revenue-authorities only.

For what
village cesses
suit lies.

153. No suit shall lie in any Civil or Revenue Court for the recovery of any village-cess which has not been sanctioned by the Chief Commissioner and also either recorded at a Settlement or under section 132, clause (h).

Limitation of
claims for
compensation
in case of
waste-land
demarcated
as property
of Govern-
ment.

154. Whenever at any Settlement made before this Act comes into force, waste-lands have been demarcated as the property of Government, no claim of any person to, or in respect of, such lands shall be entertained by any Civil Court after the expiration of three years from the date of such demarcation.

Restriction
on Revenue
and Settle-
ment Officers
trading and
holding land.

155. No Revenue or Settlement Officer, and no person employed in any Revenue or Settlement Office, shall, except with the express permission of the Chief Commissioner,—

(a) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction or in the purchase or hiring of land, in the district to which he is appointed, or in which he is employed ;

(b) purchase or bid for either in person or by agent, in his own name or in that of another or jointly or in shares with others any property which may be sold by order of any Revenue-authority in such district.

¹ These words were substituted for the words " or mukaddam " by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 38.

(Part V—Chapter XII—Miscellaneous—Sections 155, 156, 157 and 157-A.)

The Chief Commissioner may delegate to Commissioners of Divisions or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class of officers.

Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1866.¹ X of 1866.

156. When any mahal is managed or let in farm under Section 57 or 58, or when either of the proclamations mentioned in Sections 98 and 103 has been made, all sums due to the proprietor in respect of the mahal, share or land mentioned in any of the said sections, shall be payable only to the Deputy Commissioner or Settlement Officer, his agent or lessee; and no payment made to such proprietor in anticipation of the usual period for such payment shall, without the sanction of the Deputy Commissioner or Settlement Officer, be credited to the person making the same in account with the Deputy Commissioner or Settlement Officer, his agent or lessee.

When mahal managed or farmed, or upon proclamation under Section 98 or 103 rent payable to Deputy Commissioner.

Payment to proprietor in anticipation of due date.

157. When any land has been let in farm under the provisions of this Act, any revenue due from the farmer in respect of such land may be recovered from him or his surety as an arrear of revenue payable directly to Government.

Recovery of balances due by farmers.

157-A. Rents, fees and royalties due to the Government for the use or occupation of land or water (whether the property of the Government or not) or on account of any products thereof, and all moneys falling due to the Government under any grant, lease or contract which provides that they shall be so recoverable, may be recovered under this Act in the same manner as an arrear of land-revenue.

Recovery of miscellaneous revenue.

NOTE.—Section 157-A provides for the collection as an arrear of land-revenue of all miscellaneous revenue and cognate dues which have not been assessed under the Act (Section 91). This will legalize the collection by summary process of rents of fisheries, royalties on mines and quarries and will also enable rents of *Nazul* sites, or the revenue payable on building sites which were sold outright under the former *Nazul* rules to be collected as land-revenue instead of as heretofore by regular suit in a Civil Court.

¹ See now the Indian Companies Act, 1882 (VI of 1882).

² Section 157-A was inserted by Section 11 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

166 *Central Provinces Land-revenue.* [ACT XVIII,

(*Part V—Chapter XII—Miscellaneous—*
Sections 158, 159, 160, 161, 161-A and 161-B.)

Recovery of
revenue due
when Act
comes into
force, and of
money
payable
under Act.

158. All land-revenue due when this Act comes into force, and all penalties or other moneys payable to, or recoverable by, an officer of Government under this Act, shall be recovered from the persons from whom they are due and from the sureties (if any) of such persons as if such land-revenue, penalties or moneys were an arrear of revenue payable directly to Government due under this Act by such persons and their sureties.

Past
proceedings
for collection
of revenue
legalized.

159. All proceedings taken before this Act comes into force for the collection of the land-revenue or the realization of arrears thereof shall be deemed to have been taken in accordance with law.

Chief Com-
missioner
may
empower
persons by
name, or
confer
powers on
classes.

160. In conferring powers under this Act the Chief Commissioner may empower persons by name or classes of officials generally by their official titles.

Chief Com-
missioner
may vary or
cancel orders.

161. The Chief Commissioner may vary or cancel any order conferring powers under this Act.

Penalty for
failure to
perform duty
or abuse of
authority by
mukaddam or
agent.

¹161-A. Any mukaddam or agent of a mukaddam who without reasonable excuse fails to perform any duty imposed on him by this Act or the rules made thereunder, or abuses any of the powers conferred upon him by this Act or any of such rule, shall be ²liable, on the order of a Deputy Commissioner, to a fine which may extend to fifty rupees, and, in the case of a continuing failure, to a fine of ten rupees for each day during which the failure continues.

Penalty for
neglecting or
disobeying
orders of
mukaddam
or agent.

³161-B. Any person who neglects or disobeys a reasonable order made by a mukaddam or agent of a mukaddam in pursuance of the duty imposed upon him by section 141, clause (e), shall be ²liable

¹ Section 161-A was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889), section 39.

² These words in sections 161-A and 161-B were substituted for the words "punishable with fine" by section 12 of the Central Provinces Land-revenue Act, 1898 (XII of 1898).

³ Section 161-B was inserted by the Central Provinces Land-revenue Act, 1889 (XVI of 1889, section 39).

(Part V—Chapter XII—Miscellaneous—Sections
161-B and 162.)

on the order of a Deputy Commissioner, to a fine which may extend to twenty rupees, and if the neglect or disobedience is continued, shall also be liable to a fine of five rupees for each day during which the neglect or disobedience is continued.

NOTE.—Sections 161-A and 161-B, providing for the punishment of mukaddams failing to perform their duties, and of persons disobeying the orders of mukaddams, respectively, were formerly so worded that the fines permitted by these sections could only be imposed after regular criminal proceedings. As now amended they empower the Deputy Commissioner to impose fines without the delay and trouble of a regular criminal trial, the necessity for which rendered the sections as originally worded practically inoperative. While, however, summary powers are thus conferred on the Deputy Commissioner in respect of cases of this kind, his action will still be of a quasi-judicial nature; and it is necessary that he should record written proceedings in each case which should clearly show the nature of the act or omission charged against the person fined that the charge was fully explained to him, that he was given an opportunity of explaining or justifying his failure to comply with rules, the final order, and the grounds on which it is based.

162. The Chief Commissioner may, with the previous sanction of the Governor-General in Council, make rules consistent with this Act for carrying out its provisions, and may attach to the breach of any such rule, or of any other rule made by him under this Act, a penalty which may extend to two hundred rupees, or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues.

Chief Commissioner may make rules and attach penalty to breach thereof.

The Officiating Chief Commissioner, with the previous sanction of the Governor-General in Council, is pleased to attach to the breach of Rule V of the rules published with Notification No. 7484, dated the 26th October 1891, as amended by Notification No. 2876, dated the 9th July 1903, a penalty which may extend to two hundred rupees or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues.

Notification No. 2877, dated the 9th July 1903.

The Chief Commissioner, with the previous sanction of the Governor-General in Council, is pleased to attach to the breach of Rules I and II of the rules regarding the management of the forest lands in the zamindaris and jagirs of the Chanda, Bhandara, Balaghat, Raipur, Bilaspur,

Notification No. 3203, dated the 5th November 1908.

(*Part V, Chapter XII—Miscellaneous—Section*
162.)

Hoshangabad and Chhindwara districts, which were published in the
 Chanda { No. 555, dated the 31st January 1890, and *Central Pro-*
 { No. 1408, dated the 10th March 1904. *vinces Gazette*
 Bhandara, No. 76, dated the 8th January 1890. *Notifica t i o n s*
 Balaghat, No. 2184, dated the 15th April 1890. *detailed in the*
 Raipur } No. 7491, dated the 27th November 1890. *margin, a pen-*
 Bilaspur } *alty which may*
 Hoshangabad } No. 4523, dated the 24th July 1891. *extend to two hundred rupees or, when such breach is a*
 Chhindwara } *continuing breach, to fifty rupees for each day during which*
such breach continues.

All powers to make rules conferred by this Act on the Chief Commissioner shall be exercised subject to the control of the Governor-General in Council, and may be exercised from time to time as occasion requires.

No rule made by the Chief Commissioner under this Act shall take effect until it has been published in the local official Gazette.

All such rules, when so published, shall have the force of law.

SCHEDULE.

[ENACTMENTS REPEALED.]

Repealed by the Repealing and Amending Act, 1891 (XII of 1891).

**THE CENTRAL PROVINCES TENANCY
ACT, XI OF 1898.**

CENTRAL PROVINCES TENANCY ACT.

The following Extract from the Proceedings of the Chief Commissioner, Central Provinces, in the Revenue Department, No. 1757, dated Nagpur, the 26th April 1899, is reprinted as an introduction to the Central Provinces Tenancy Act.

RESOLUTION.

The discussions of the past five years have no doubt Preliminary. familiarised the Revenue officers of these Provinces with the important changes which have been made in the Tenancy Law by Act XI of 1898. Many of these changes were very fully explained in the course of the debate in the Legislative Council of the 23rd September, which will be found reported in Part VI of the *Gazette of India* of the 21st October last, and should be read by all Deputy Commissioners and their Assistants. But the Chief Commissioner thinks that it is desirable to formally call attention to the principal points in which the new law differs from the old, and has extended or modified the functions of Revenue officers, and to explain the principles to be followed in working certain of the new provisions, and the action which the Administration proposes to take in the issue of rules or of executive instructions.

2. The changes in the law are enumerated in order of Changes in the sections in the Annexure to this Resolution, and may the law. be classed according as they are concerned with—

- (1) the improvement of the position of ordinary tenants;
- (2) the improvement of the position of tenants generally;
- (3) the transfer of *sir* rights;
- (4) the succession to and transfer of tenancies;
- (5) the position of village tenants;
- (6) the recovery of rent arrears under a decree.

3. *The improvement of the position of ordinary tenants.*—This was the question which originally led to the Reduction of ordinary rents at Settlement, Section 63. undertaking of legislation, and the provisions concerned with it are among the most important features of the new Act. The rents of ordinary tenants will now be fixed authoritatively at Settlement under Section 63, and the Settlement Officer will no longer be obliged to seek the landlord's

consent to his proceedings. The experience of the last five years has shown that the reduction of excessive rents effected with the consent of the landlords in many recent Settlements has been very generally inadequate; and separate instructions will issue in the Settlement Department reminding Settlement Officers that, while the rents of ordinary tenants must not be reduced merely because they exceed even considerably, a theoretical standard, their reduction, whenever they are obviously exorbitant, and have either fallen into heavy arrears on that account, or have not been paid without hardship, will now form one of their most important duties.

Enhancement
of ordinary
rents : Section
65.

4. The landlord retains the right of calling on an ordinary tenant by notice to pay an enhancement of any amount. But the notice is to be served through a Revenue officer instead of through the Civil Court, and if the tenant does not accept the enhancement and the landlord applies for his ejection, the Revenue officer is bound to inquire into the fairness of the demand and to fix a fair rent *whether the tenant appears in Court or not*. A task of considerable difficulty is thus imposed on the officers to whom it will fall to deal with these cases—especially if they have had no Settlement experience—a task which can only be performed successfully by utilizing the information collected and recorded at the last preceding Settlement as a practical guide to a safe conclusion. For this purpose it is desirable that Deputy Commissioners and their Assistants should make themselves generally acquainted with the process of rent fixation adopted at Settlement, with the meaning of the various technical terms employed, and with the form of the rent-rate reports to which they will turn for information; and such portions of the Settlement Code as deal with the subject will now be added to the subjects for the Departmental Examination in Revenue Law and Procedure. A set of instructions has been framed for the guidance of officers fixing fair rents under Sections 66 and 78 of the Act. It will be observed that any enhancement imposed may not exceed 33 per cent of the existing rent unless the latter is merely nominal, and it will seldom be advisable to approach this maximum limit. If the tenant accepts the authoritative rent, he is entitled to remain in possession at this rent for a period of seven years. But his acceptance cannot be presumed, and his appearance in Court to accept or refuse should always be insisted upon. Powers are now being conferred on Revenue officers under Section 99 of the Act, enabling them to compel the attendance of parties to the proceedings. If the tenant refuses to accept the rent fixed, he will be liable to ejection *forthwith* without compensation for disturbance. But it will be the business of the Revenue officer to assess anything which may be due on account of improvements, and to see that an equitable arrangement is made under Section 88.

5. A further security is given ordinary tenants against excessive exaction on the landlord's part, by their being permitted (Section 78) to plead in the course of a suit for arrears that the rent is excessive. If the Civil Court trying the suit finds that the rent has been actually or presumably fixed under the Act, the plea will be rejected. But if it finds that the rent has been fixed privately (whether under pressure of a notice under Section 64 or not) and not authoritatively, it may refer the case to a Revenue officer for an authoritative fixation of a fair rent, and in fixing it he will be guided by the instructions already referred to in paragraph 4. The Revenue officer's powers are not limited to reducing the existing rent or maintaining it. He may, *on the formal application of the landlord*, enhance if he finds it to be inadequate—a discretion which will check tenants from raising the plea of excessive rent as a matter of course. If the rent fixed by the Revenue officer is less than the rent on which arrears are claimed, the Civil Court will re-calculate arrears in cases when the rent claimed represents an enhancement imposed by the landlord, or was maintained at the last preceding Settlement because the landlord refused to reduce it. But when this is not the case, and the rent is the initial rent at which the tenant took up the holding, arrears will stand at the rate claimed, the authoritative rent taking only future effect, and conditionally on the payment by the tenant of the arrears decreed. Subject to this condition in this particular case, rents fixed authoritatively under Sections 66 and 78 will run from the commencement of the agricultural year next following, respectively, the landlord's application and the institution of the suit for arrears. An authoritative rent is not liable to enhancement for a period of seven years; and, save in cases where he has taken up waste land on a reclamation lease, a tenant is also protected from enhancement during the seven years which follow either an enhancement by consent (whether under pressure of a notice or otherwise), or an abortive attempt to eject under Section 66.

Fixation of
fair rent :
Section 78.

6. Advantage has been taken of this opportunity to substitute for the rules hitherto in force under Section 46 of the old Act, a set of instructions, following the same general lines as those referred to in paragraph 4 above, for the enhancement of occupancy rents under Section 51 of the new Act. It is neither fair to the landlord nor good for the tenants that these rents should be allowed to stagnate, as they have done hitherto; and the new instructions are designed to make their reasonable enhancement more easy and practicable. Hitherto enhancement has been permitted only on the ground of a rise in prices. To this ground have now been added the fact that a specially low rent was fixed at Settlement in order to avoid too sudden an increase

Enhancement
of occupancy
rents : Section
51.

and the fact that ordinary rents have generally risen, thus indicating a rise in the value of land. The provision of the old rules to the effect that the enhanced rent shall not exceed seven-eighths of the rent payable for similar land by ordinary tenants has been cut out as unworkable. But it has been provided instead that the enhanced rent shall in no case exceed the deduced rent after allowing for the rise in prices. It has been provided, both here and in the case of fair rents for ordinary tenants, that the rise of prices to be taken into account must have been declared by the Local Government; and measures will be taken to periodically examine the course of agricultural prices in the several districts, and notify the rise which has taken place and the degree of enhancement which it justifies.

Minor privileges : Sections 17 and 31.

7. Minor privileges conferred on ordinary tenants are the right to improve their holdings without reference to the landlord (section 31) and the right to claim commutation into cash of a rent payable in kind (section 17).

Miscellaneous charges : Sections 10, 11, 12, 14, 18, 130, 79, 92, 94.

8. *The improvement of the position of tenants generally.*—An important presumption in the tenant's favour has been created by section 11, under which payments made by a tenant from whom rent is due are to be taken as made on rental account, unless it can be shown that the tenant has agreed to the contrary. This provision of the law will be brought to the notice of the Land Record Staff, to be observed in the maintenance of the rental accounts contained in tenants' *rasid bahis*. The penalties which under the old law Civil Courts had the power of inflicting on landlords for the exaction of anything in excess of the rent legally payable, for refusing a rent receipt or giving a defective receipt, and for illegal distraint, and on tenants for illegal removal of attached produce, have now, by sections 10, 12 and 30, been made leviable by Revenue officers. And under section 92, Revenue officers have been invested with the power, formerly exercised by Civil Courts under section 9 of the Specific Relief Act, of restoring to possession, without prejudice to future legal proceedings, a tenant who has been ejected from his holding otherwise than by process of law and who applies for redress within a year of his ejection. Authority to act in one of these classes of cases—those arising under section 10—has been expressly limited by law to the Deputy Commissioner of the district, and the Chief Commissioner does not propose to empower any other officer to impose penalties under sections 12 and 30. It is hardly necessary to point out that proceedings under these sections must be of a formal character—the evidence being taken down and an order recorded giving full reasons for the decision arrived at. Hitherto no rules of procedure have been prescribed for the guidance of proceedings in revenue and tenancy

cases. But under the amended law the Revenue officer's powers have been greatly extended, so as to include several matters of a quasi-judicial nature, and rules have now been framed under section 99 making selected provisions of the Civil Procedure Code applicable in certain cases, including those now under reference. Another important change in the law is the conferment on the executive Government, by section 18, of authority to remit or suspend rent in cases where revenue is remitted or suspended, and, subject to the condition that for the estate as a whole rent is not remitted or suspended in greater proportion than revenue, to remit or suspend, not according to a general percentage, but with regard to the circumstances of individual holdings. Here, again, the power will be exercised only by the Deputy Commissioner of the district, or such one of his Assistants; invested with the powers of a Deputy Commissioner, as he may specially authorise in each case. A privilege, which perhaps rather gives logical completeness to the law than much expectation of practical benefit to tenants, is that of obtaining a reduction of rent when the rent has been fixed with regard to a landlord's improvement, and the improvement has ceased to benefit the holding (section 14). On the other hand, section 79 gives legal effect to a rule of assessment, that the right of a tenant to claim that improvement made by himself be omitted from consideration in fixing his rent, is limited to the currency of the term of Settlement within which the improvement was made and to the currency of the term of Settlement immediately succeeding. It is to be noted that, for the purpose of this section, the reclamation of waste land is not to be considered an improvement. A provision in the interests of those (mostly sub-tenants) who pay a share of the produce, or of its value, as rents; and of their landlords also, since it forbids a costly and ineffective form of litigation, is that contained in section 94, which limits to one year the period within which suits for arrears of such rents may be brought.

9. *The transfer of sir rights.*—The problem of checking the transfer of land from the land-owning to the capitalist and professional classes, and the total severance of the former from all connection with or interest in their hereditary estates, has long engaged the attention of Government. It is not now proposed to interfere with the freedom of transfer which the owners of land in the Central Provinces at present enjoy. But section 45 of the new Act prevents the total severance of the proprietor from the land, the proprietary interest in which he has parted with, by securing to him a cultivating occupancy right in his *sir*; and, as explained by Sir John Woodburn when introducing the Bill in October 1897, the provision has been inserted in the interest of the former proprietor, and to preserve to him the means of subsistence.

Ex-proprietary occupancy right in *sir*: Section 45.

10. Under section 42 of the former Act, a proprietor could contract himself out of the privilege of retaining his *sir* land in occupancy tenure on losing proprietary rights in it. Under section 45 of the new Act this will no longer be possible, as regards future transfers, save in cases where the contract has been expressly sanctioned by the executive Government. In other cases occupancy rights will accrue to the transferor immediately he loses the right to *occupy the sir as proprietor*, that is to say, immediately he parts with proprietary possession, whether by lease, by mortgage, or by sale. * * * *

* * * It is not intended that these alterations should affect contracts entered into before the passing of the new Act; and sub-section (6) is meant to exclude from their operation all transfers made in pursuance of documents duly registered before the commencement of the Act. It is not quite certain that it effects this object satisfactorily, and the point is under the consideration of Government. Simple rules of procedure have been framed for the guidance of Revenue officers in dealing with applications for sanction under clause (2) of the section; and the following are the principles which will be observed in dealing with such applications.

Cases in which Deputy Commissioner can give sanction.

11. The cases to be dealt with fall under two classes, according as the Deputy Commissioner of the district (who alone is invested with powers in this class of cases) should sanction them himself, or should forward them for the orders of the Financial Commissioner. Of the three cases in which the Deputy Commissioner *must* sanction transfer, two are quite clear—those in which property is self-acquired, or has been acquired *otherwise than by inheritance* within the twenty years last preceding. The third case, where the applicant claims sanction as not being “wholly, or mainly an agriculturist”, leaves room for the exercise of discretion. But it must be remembered that when the Deputy Commissioner feels the slightest doubt in the matter, he is bound to refer the case for orders, since it is only when he “*is satisfied*” that the applicant is not wholly or mainly an agriculturist, that he has power to sanction. The principles by which he will be guided in deciding whether or not an applicant is beyond all doubt “wholly or mainly an agriculturist”, and in preparing and making recommendations in cases referred for the Financial Commissioner’s orders, are explained in the following paragraphs.

Interpretation of the term “agriculturist”.

12. In interpreting the section, the first point to be borne in mind is, that the term “agriculturist” is by no means synonymous with the term “cultivator.” A Rajput

* Words omitted under the orders contained in Revenue Secretariat Circular letter No. 1785 of 1st May 1900.

zamindar who derives the whole of his income from his landed estates will never have set hand to a plough, and yet is emphatically an agriculturist within the meaning of the section. In the second place, as pointed out in paragraph 24 of the Select Committee's Report, it is not possible to definitely separate off classes or castes for the purposes of the definition. A Lodhi pleader in good practice who happens to own a small village will not be, and a Kayasth malguzar who lives entirely upon his land will be, an agriculturist for the purposes of the section. The main criterion must ordinarily be whether the transferor's income is wholly or mainly derived from agricultural land or not.

13. But this is not in itself necessarily conclusive. It is proper to take into account also the class to which the applicant belongs, and the hereditary traditions of his family. A malguzar who owns a substantial estate, which has been in his family for generations, may have taken a new departure, and be earning in a profession, or by money-lending, a non-agricultural income which exceeds that which he derives from his land. A large money-lender of the Bania caste, while still in full pursuit of his hereditary calling, may have invested so much of his profits in landed property as to derive from it an income exceeding that which he derives from his proper trade. In either case, the hereditary occupation is the one to be regarded, and not the new and foreign source of income which has been added to it and the former person would properly be held to be, and the latter not to be, an agriculturist. Cases will, indeed, arise in which this is the only possible criterion. The malguzar just mentioned may have a brother owning the estate jointly with himself, who has no other source of income. If the two present a joint application under the section it is impossible to declare one brother to be and the other not to be an agriculturist, and it is the hereditary occupation that must prevail.

14. So again, the Financial Commissioner may (but is not obliged to) sanction transfer when an agriculturist transferor has other permanent means of subsistence [clause (2) (a)]. Here, too, the history and standing of the family may properly be considered. The main object of the new provisions is to retain upon the land and secure from it a decent subsistence for those who are connected with it by hereditary sympathies and interests. It is not only the individual himself, but his family also, that is to be considered. He may be a good-for-nothing spendthrift who has brought the estate to ruin, or the separate means of subsistence which he possesses may be due to his individual qualifications (as, for instance, in the case of an Extra-Assistant Commissioner or a Pleader) and will not descend to his

Other grounds
for sanction.

heirs. On the other hand, it is not intended that a hereditary land-owner shall invariably be forced to retain an occupancy right in the whole of his *sir*, when there is no good object to be gained by doing so. A small portion of an estate may properly be alienated free of all encumbrances, in order to redeem or to develop the remainder. And if, in the case contemplated by clause (2) (b), the estate that is being alienated is so extensive or so scattered that it would clearly be impossible for an occupancy-tenant, whose powers of transfer are circumscribed by section 46 (3), to manage the whole of the *sir*, it will be enough to retain to him occupancy right in such a portion of it as will secure to him a substantial and sufficient income with reference to the reduced circumstances of the family.

Special cases.

15. It will be observed that clause (2) (c) of the section gives the Financial Commissioner absolute discretion to sanction transfer; and there is still another consideration which may properly be taken into account. It is one upon which Mr. Chitnavis laid stress in his speech on the motion to refer the Bill to a Select Committee; namely, the purpose with which the land was originally acquired. It may be that the village was purchased by the applicant's father more than 20 years ago, and in such a case it is in the discretion of the Financial Commissioner to refuse transfer. But if it is obvious that the land was purchased purely as a speculative investment— if, for instance, the owner is resident in another district, and has been in the habit of freely buying and selling villages in various parts of the country — it would clearly be wrong to refuse it. There is another class of case also, which will gradually disappear, but which, it is feared, is not uncommon at the present moment, and in which the Financial Commissioner will accord sanction without hesitation. It is where a proprietor has mortgaged his estate before the passing of the Act, by a registered deed of conditional sale, and is now threatened with foreclosure, which will deprive him of all rights in his *sir*. Meanwhile, the value of the estate has temporarily deteriorated, owing to the recent famine, so that its selling-value, if the occupancy right in the whole of the *sir* is to be retained, is less than the amount due under the mortgage. Under these circumstances, the only way in which the proprietor can retain any interest in his land is, by selling a portion of it free from occupancy right, in order to redeem the rest from mortgage.

Procedure under section 45 (2) (3).

16. The rules of procedure framed under clauses (2) and (3) of the section aim at providing all the material necessary for deciding whether sanction should be given or

not. Applications for sanction must be submitted before the transfer is made, and before the documents by which it is erected are executed; while documents will be received for endorsement under clause (3) only after the transfer to which they relate has been formally sanctioned. When the land is self-acquired, or purchased within the last 20 years, the Deputy Commissioner will accord sanction at once. So he will when he *is satisfied beyond all question* that the applicant is not wholly or mainly an agriculturist. In all other cases he will forward the case to the Commissioner, who will submit it to the Financial Commissioner for orders. It will be noticed that the proviso to Rule IX gives Deputy Commissioners a wide discretion as to the degree of detail in which each case should be reported. If a wealthy malguzar, who owns villages scattered over almost every district in the Province, wishes to sell a few acres of *sir* land free of occupancy rights, it would be equally absurd to demand and impossible to prepare a detailed statement of his landed estate. But Deputy Commissioners will not forget that it is necessary for the Financial Commissioner to have before him in each case all the material required for the discharge of the responsibility imposed upon him by the law, and that the discretion allowed them has been left without limit in the expectation that it will be exercised judiciously.

17. It will be observed that under sub-section (3) no document which purports to effect a transfer in contravention of the provisions of the section can be registered, so that under the Transfer of Property Act no such sale or mortgage of value exceeding Rs. 100 can be legally effected. The attention of registering officers has already been drawn to the responsibility imposed upon them by this section, as well as by sub-section (5) of sections 46 and 70. It must be remembered also that under section 69 (1) of the Land Revenue Act, all *sir* land transferred in contravention of the provisions of section 45 of the Tenancy Act at once loses its character as *sir*, and, if cultivated by the new proprietor, becomes khudkasht merely. It will of course be possible for transferors to evade section 45 by surrendering their occupancy rights (either expressly or by omission to take advantage of them) or by subsequently transferring them. The penalty entailed by such surrenders or transfers is described in sections 36 and 47. It consists in the right given to any one of the possible heirs of the transferor, and (in case of transfer) to the landlord, to have the surrender or transfer set aside, and to be placed himself in possession without repayment of the consideration money; but subject to the acceptance of certain liabilities for arrears of rent and advances for the purpose of cultivation.

18. *The succession to, and transfer of, tenancies.*—The law relating to succession has been changed in one particular. Henceforth (section 46) an occupancy holding will no tescheat to the landlord on failure of direct heirs or

Penalties for
evasion of
section 45.

Succession to
occupancy
rights :
section 46.

co-sharing collaterals, so long as collaterals are forthcoming who hold land or are resident in the village in or from which the holding is cultivated, and are in the male line of descent from an ancestor who occupied the holding. But claims of such collateral heirs do not come into existence so long as there are direct heirs or collaterals who are co-sharers in the holding. The change in the law merely gives effect to general village custom. It will be specially brought to the notice of the Land Record establishments.

Transfers and
surrenders of
tenancies:
sections 36,
46, 70, 47, 71.

19. Sections 46 and 70 prohibit the transfer of occupancy and ordinary tenancies, save by sale in recovery of a Government loan. Sub-letting is left permissible, but for a period of one year only. Section 36 also invalidates transfers of occupancy tenant right made by way of surrender. A transfer or surrender will expose both parties to the intervention of any one of the possible heirs of the transferring or surrendering tenant (or in the case of a transfer, of the landlord), who within two years of possession being relinquished may claim the holding without payment of the consideration money, but subject to his accepting the liabilities of the tenant for rent arrears and debts incurred for the necessary expenses of cultivation. The Act prescribes a procedure for deciding between two or more counter-claimants, and rules have now been framed for the guidance of officers in determining the liabilities which claimants should be called upon to accept. It is to be noted that the law leaves the determination of these liabilities to the discretion of the officer dealing with the case, guided by the rules in this behalf. The object is to facilitate the setting aside of illegal transfers with the minimum risk of hardship. It is important to prevent the claims of heirs or of the landlord being defeated by collusive over-statement of the debts of the tenant. It is also important to arrive at a speedy decision in what is meant to be a summary inquiry. And the Select Committee deliberately left the Revenue officer a wide discretion, in order to ensure that only such liabilities should be imposed as he "might consider equitable". The rejection by him of any claim in no way affects the remedy of the creditor against the original debtor. In one case the transferring tenant may himself regain possession—when the transfer was by way of lease made in ignorance of law and the tenant is able and willing to cultivate the holding. But in this case the re-payment of the consideration money is a necessary condition.

Bona fide
surrenders:
section 36 (4).

20. Section 36 aims at invalidating fictitious transfers and does not render it impossible for a landlord to treat a surrender as final and make permanent arrangements for a new tenant. Under sub-section (4) a landlord may apply for the confirmation of a surrender as *bona fide*, and confirmation will bar the claims of heirs to possession. Surrenders of occupancy tenures are generally rare, and cases under this sub-section, unless in attempted evasion of the provision

of section 45, will probably not be numerous. The Chief Commissioner does not propose at present to issue formal rules for the guidance of officers dealing with these cases, each of which must be judged on its merits; but general instructions on the subject will be found in the rules issued under the section. As in mutation cases, local enquiry may be made by a Tahsildar or Naib-Tahsildar. But the decision will rest with the Deputy Commissioner of the district, who alone is empowered to deal with them.

21. It will be observed that transfers or surrenders which are not called in question within two years of loss of possession become practically inexpugnable, except by means of a regular Civil suit. A practical question to be decided is the course to be followed by the Land Record staff in recording transfers, both during and after the expiry of the period within which they can be summarily called in question. The Chief Commissioner has come to the conclusion that the only safe course is to adhere to the principle which has hitherto guided the maintenance of village records, and enters the fact according to actual possession. But the illegality of the transfer or surrender, and the name of the person who made it, will be noted in the column of the khasra provided for remarks. In the case of *sir* land, in which the cultivating right has been illegally transferred, the land, if cultivated by the new proprietor, will, for the reason already explained in paragraph 17 of this Resolution, invariably be shown as *khudkash*, the ex-proprietor's unclaimed right of occupancy being noted in the column for remarks. The Commissioner of Settlements and Agriculture will be asked to issue the necessary instructions in the Land Records Department, as well as to consider and report as to the advisability of prescribing a special annual return of transfers made contrary to law.

Entry of invalid transfers, etc., in the Land Records.

22. The prohibitions of transfer to which reference has been made lack any very direct or enduring sanction, and it has yet to be seen what effect they will have in changing existing ideas and customs, though they will probably check their spread. But in section 61 the Act offers a provision which will enable the Government to place an effective check on the transfer of tenancies to persons of the non-cultivating classes—the class of transfer which is open to greatest objection. By granting sub-tenants, in certain cases, the protection afforded to ordinary tenants, the section will powerfully discourage such transfers by jeopardizing the profits to be made from them. A trader or money-lender who secures a holding in order to cultivate it himself will, it is true, not be affected—nor in such a case is the transfer open to objection on economic grounds. But when, as so frequently happens, a money-lender uses his titular right as tenant, whether based

Protection of the sub-tenants of a rent-receiver: section 61.

upon purchase or usufructuary mortgage, merely to secure a rack-rent from the original tenant or another, the Government will now be able to secure the sub-tenant in possession at a rent which can be rendered without hardship, and on a title practically independent of that of the person from whom he holds. The section does not come into force till a year hence, and the Chief Commissioner does not propose at present to issue rules of guidance under it. But Deputy Commissioners have been asked,

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* * to ascertain whether in any locality the evils which the section is intended to counteract have become so prominent or widespread as to render its extension to them desirable. It is not proposed to use the law to disturb the relations of tenant and sub-tenant in special isolated cases, such as, for instance, in the management of gardens and orchards in the vicinity of towns. Nor (and this is a consideration of importance) is action to be taken in cases where cultivating tenants sub-let part of their land because they hold more than the present generation can conveniently cultivate. It is not intended, either, to interfere with *bonâ fide* investments in the past, so long as the purchaser treats his sub-tenants reasonably. The object of the section is to prevent the degradation of the cultivating classes by the intervention of non-cultivating middlemen between them and the protection conferred by tenancy legislation, though it is not intended to deny to middlemen a profit by way of rent, when the cultivating tenant can (as will generally be the case) pay without hardship something in excess of the statutory rent of the holding. Powers under the section will be confined to the Deputy Commissioner of the district.

23. The Act has made no change in the power of transfer enjoyed by tenants of the absolute-occupancy class. But a sub-section has been added to section 41, which removes a doubt as to the right of an absolute-occupancy tenant, who has lost possession under an illegal transfer which has been followed by the ejectment of the transferee by the landlord, to recover his holding. The tenant is given a right to be re-instated in possession, on his re-imbursing to the landlord the costs incurred in ejecting the transferee.

Illegal transfers of absolute-occupancy holdings : section 41.

24. *The position of village service tenants.*—The former Act empowered a Revenue officer to eject a village-service tenant. Powers are now given, by section 58, to reinstate such a tenant who has been wrongfully ejected, or to place a successor to the office in possession of the service holding. Provision has also been made, in section 56, for the conversion of a village service tenure into an occupancy tenure in cases where the hereditary succession is broken, and the Administration decides that service land is no longer to form part of the emoluments of office.

Village service tenants : section 56.

25. *The recovery of rent arrears under a decree.*— Under the former Act, a landlord who had obtained a decree for arrears could take out execution with facility against the moveable property only of the tenant. He could not bring an absolute-occupancy tenure to sale without the delay and formalities which attend the Collector's proceedings in the execution of class B decrees. The ejectment of an occupancy or ordinary tenant could not be effected until, at earliest, the end of the year following that in which he obtained his decree. The experience of the past two or three years has shown the need of more stringent means of recovery, and the new Act greatly strengthens the position of the landlord. Under section 84, sale in execution of a decree for arrears of rent against an absolute-occupancy tenant will continue to be effected by the Collector; but the decree is to be treated as if of class A, and the procedure will be prompter than it is at present. Under section 85, orders by the Civil Court for the ejectment of tenants in execution of decree will be transferred to Revenue officers, and ejectment may be effected without waiting till the close of the agricultural year. Tahsildars are being empowered to execute decrees under section 85; but Deputy Commissioners should, especially at the outset, keep an eye on the proceedings, and see that they are conducted in accordance with the law, and with due regard to the judgment-debtor's claims to a period of grace. The Act contemplates the grant to defaulting tenants of all classes of time in which to make payment. The time so allowed is limited (sections 84 and 85); but the Chief Commissioner has authority to extend the limits in order (to quote the Select Committee) to "enable him to keep a check on execution-sales and ejectments in times of agricultural depression." He is prepared to receive recommendations at once for the extension of the limits in localities which have not as yet recovered from the effects of the famine; and, from time to time, in regard to localities which are suffering from seasonal calamities, or to other special cases. The grace to be allowed must of course be reasonable; and should not, perhaps, unless the holding is seriously deteriorated owing to causes beyond the control of the tenant, extend beyond one month after the harvest next following has been reaped and garnered, the actual date which will cover this being of course specified in the order. There is a risk that, owing to neglect of duty on the part of the process-serving staff, a tenant may be ejected from his holding in ignorance that proceedings for ejectment had been taken against him. A rule has accordingly been framed, on the precedent of the Civil Procedure Code, empowering a Revenue officer to cancel an ejectment and to re-open proceedings, if the tenant appears within 30 days and shows that the notice issued under sub-section 2 of section 85 did not, as a matter of fact, reach him.

Sale and
ejectment for
default:
sections 84,
85.

Duties of
Revenue offi-
cers in eject-
ment cases :
sections 32,
88.

26. Lastly, it is to be observed that powers of ejectment have now been withdrawn from Civil Courts, save in cases where ejectment is decreed on the grounds described in clause (b) of section 52 (and referred to in section 69), or on the ground that the holding consists entirely of *sir* land. Ejectments, whether in execution of a decree for arrears of rent, or on refusal of a tenant to accept a fair enhancement, will in future be effected by Revenue officers, and it will fall to them to assess the compensation (if any) payable to the tenant under section 32, and to make equitable arrangements under section 88 in regard to standing crops or land prepared for cultivation.

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ANNEXURE.

Abstract of the provisions of the Tenancy Act of 1898 which have made a change in the previously existing law.

Number and subject of section.	Brief abstract of change made in the previously existing law.
10. Penalty for levy of anything in excess of legal rent.	Jurisdiction transferred to Revenue officers.
11. Presumption as to tenants' payments.	Where rent is due, payment presumed to be on rental account.
12. Penalty for refusal to grant receipt.	Jurisdiction transferred to Revenue officers.
14. Rent reduction when effect of landlords' improvement ceases.	A tenant whose rent has been fixed with regard to a landlord's improvement may claim an abatement if effect of improvement ceases.
17. Commutation of rents ...	Right to commute extended to ordinary tenants.
18. Remission or suspension of rent with revenue.	Powers taken to remit or suspend rents by executive order when land revenue is remitted or suspended, and to distribute the remission or suspension equitably amongst tenants' holdings in the area affected; also to remit or suspend malikhanas, theka-jama, or malik-makbuza revenue. The provisions apply to estates held free of revenue or on quit-rent.
30. Penalty for illegal distraint ...	Jurisdiction transferred to Revenue officers.
31. Right to improve ...	Right extended to ordinary tenants.
32. Compensation for improvements on ejectment.	Compensation to be determined by a Revenue officer instead of by Civil Court, when Revenue officer objects in execution or under section 66.
33. Assessment of compensation with the aid of assessors.	Its application has been narrowed to cases in which Civil Courts decree ejectment.

ANNEXURE.--(Contd.)

Number and subject of section.	Brief abstract of change made in the previously existing law.
36. Avoidance of surrender of occupancy tenure.	Any heir-presumptive may apply within two years to have surrender set aside unless it has been decided after enquiry to be <i>bona fide</i> .
41. Transfer of absolute-occupancy tenure.	Transferor may be reinstated within one year of losing possession.
45. Accrual of occupancy right to ex-proprietors of <i>sir</i> .	Occupancy rights accrue in <i>all cases of transfer involving loss of occupation</i> , whether temporary or permanent, unless transfer of <i>sir</i> rights sanctioned.
46. Devolution and transfer of occupancy tenures.	Registration prohibited of documents transferring <i>sir</i> rights without sanction.
	Failing direct heirs or co-sharers, collaterals who are not co-sharers may succeed under certain conditions.
	Transfers and leases other than annual leases, prohibited, save in recovery of takavi arrears.
	Registration prohibited of documents transferring occupancy rights.
47. Avoidance of transfer of occupancy tenures.	Any heir-presumptive, or the landlord may apply for possession within two years of loss of possession by transferring tenant.
48. Procedure on application for avoidance.	Heir may be placed in possession on certain conditions, provided that transferring tenant may be reinstated in certain cases where transfer is only by way of lease.
56. Devolution and transfer of village service tenures.	Conversion of village service tenure into an occupancy tenure on change of incumbents occurring.
58. Ejectment and reinstatement of village service tenant.	To the powers of ejectment already enjoyed by Revenue officers are added powers to reinstate or place successor in office.
59. Leases to sub-tenants	Invalidated if for a period exceeding one year.

Number and subject of section.	Brief abstract of change made in the previously existing law.
1. Protection of sub-tenant cultivating under sub-letting middleman.	A sub-tenant not holding from a malik-makbuza may be given the rights of an ordinary tenant, with a title independent of that of the tenant from whom he holds, paying the statutory rent direct to the superior landlord, and holding direct from the superior landlord if the subletting tenant should vacate.
63. Fixation of ordinary tenants' rents at Settlement.	Powers given to Settlement Officers to fix rents authoritatively in avoidance of contracts.
64. Notices for enhancement of ordinary rents during currency of Settlement.	To be served through Revenue officers instead of Civil Courts.
65. Acceptance of enhancement and liabilities in default.	Jurisdiction transferred from Civil Court to Revenue officers.
66. Determination of a fair rent, and ejectment of tenant on refusal to accept it.	Revenue officer empowered to intervene between landlord and tenant for the fixation of a fair rent, and to eject (subject to payment of compensation for improvements) if tenant refuses to accept the rent fixed by him. A limit of 33 per cent imposed on enhancement, but the right to compensation for disturbance withdrawn.
68. Ordinary rents once fixed not liable to enhancement for seven years.	The limitation applies in cases where rents have been fixed at Settlement or in the course of a suit for arrears or have remained untouched owing to an order for ejectment becoming void, as well as in cases where they have been fixed by consent or in the course of proceedings following a notice of enhancement. But it does not apply in cases where land has been let on a reclamation rent.
70. Devolution and transfer of ordinary tenures.	Transfers and leases, other than annual leases, prohibited save in recovery of takavi advances. Registration prohibited of documents transferring ordinary tenures.

ANNEXURE. — (Contd.)

Number and subject of section.	Brief abstract of change made in the previously existing law.
71. Avoidance of transfer or ordinary tenures.	Any heir-presumptive, or the landlord may apply for possession within two years of loss of possession by transferring tenant.
72. Procedure on application for avoidance.	Heir may be placed in possession on certain conditions, provided that the transferring tenant may be reinstated in certain cases where transfer is only by way of lease.
73. Purchase of occupancy rights...	Rent on which purchase money calculated may be reduced as well as enhanced if unfair.
73. Alteration of ordinary rents and re-calculation of arrears in course of a suit against a tenant.	<p>If rent has been enhanced since it was fixed actually or presumably under the Act, Court may refer to Revenue officer for fixation of fair rent, arrears to be decreed only in accordance with rent so fixed, and tenant to hold at such rent for the future.</p> <p>If rent is the initial rent at which holding was taken up, Court may nevertheless refer the case for fixation of a fair rent; but in this case arrears cannot be cut down, and the tenant's right to hold at the new rent is conditional on his paying them up.</p> <p>The Revenue officer to whom a reference has been made may <i>enhance</i> instead of reducing, if he considers the rent too low; but only with prospective effect and upon the formal application of the landlord. (And he may of course maintain the existing rent if it appears to him to be fair.)</p>
79. Bar of rent enhancement on the ground of tenant's improvement.	Exemption of improvements extended to ordinary tenants as well as to occupancy tenants; but confined to improvements made during the current or last preceding Settlement. (Reclamation is not an improvement for the purposes of this section.)

ANNEXURE.—(Contd.)

Number and subject of section.	Brief abstract of change made in the previously existing law.
82. Form of application for execution of decree by sale or ejectment.	Certain particulars are to be given.
83. Limitation of arrears for the recovery of which such an application can be made.	The arrears decreed must be for <i>previous</i> years, and must include nothing on current year's account.
84. Execution of decrees for arrears against absolute-occupancy tenants by sale of holding.	Civil Court's order for sale in execution of such cases are to be transferred to the Collector, and are to be dealt with as if the decree was of Class A. But the tenant may be allowed time for payment.
85. Execution of decrees for arrears against occupancy or ordinary tenants or sub-tenants by ejectment of tenant.	Civil Court orders for ejectment in execution of such decrees are to be transferred to a Revenue officer, who, after giving the judgment-debtor a month's notice, may eject him without waiting till the end of the agricultural year. But a period of grace may be given, the length of which varies with the tenure.
88. Rights of ejected tenants in respect of crops sown and land prepared for sowing.	Arrears of rent due may be set off against any sum due from the landlord under this section. (In all cases of ejectment for arrears of rent, or under section 66, if will fall to the Revenue officer to take action under this section, which in the past has applied in Civil Court proceedings only.)
90. Enquiry into counter-claims ...	The enquiry is limited to suits for <i>rent arrears</i> in the Civil Court.
92. Summary reinstatement of tenants illegally ejected.	This takes the place of the remedy hitherto offered by section 9 of the Specific Relief Act and gives the tenant a right to apply to a Revenue officer instead of to a Civil Court, and allows him a year instead of six months in which to make application.

ANNEXURE.—(*Concl'd.*)

Number and subject of section.	Brief abstract of change made in the previously existing law.
94. Limitation in suits under the Act.	Suits for recovery of arrears of rent payable by division or appraisal of crop must be instituted within one year of arrear accruing. The ordinary law of limitation is not suspended in regard to claim for rent arrears, ejectment, or recovery of possession, because the person having the claim is a minor or lunatic.
98. Recovery of penalties	... May be recovered as if an arrear of land revenue.
99. General rule-making power of Local Government.	The authority of the Local Government has been made more general.

THE CENTRAL PROVINCES TENANCY ACT, 1898.

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PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.

*(Received the assent of the Governor-General on the
21st October, 1898.)*

An Act to consolidate and amend the Law relating
to agricultural tenancies in the Central
Provinces.

WHEREAS it is expedient to consolidate and
amend the law relating to agricultural tenancies
in the Central Provinces; It is hereby enacted as
follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Central
Provinces Tenancy Act, 1898.

Short title,
extent and
commence-
ment.

(2) It extends to all the territories for the time
being administered by the Chief Commissioner of
the Central Provinces; and

(3) It shall come into force at once.

2. In this Act, unless there is anything re-
pugnant in the subject or context,—

Definitions.

(1) the expressions “agricultural year,”
“malik-makbuza,” “*sir* land,” “survey-number,”
“record-of-rights” and “village” have the mean-
ings assigned to them, respectively, in the Central
Provinces Land Revenue Act, 1881, as from time to
time amended :

XVIII of
1881.

(2) “arrear” means an instalment or part of
an instalment of rent which is not paid on or before
the date on which it is payable :

(3) “holding” means a parcel of land held by
a tenant of a landlord under one lease or one set of
conditions :

(4) “improvement” means, with reference to a
holding, any work which adds to the letting value of

(Chapter I.—Preliminary—Section 2.)

the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it :

Explanation I.—It includes the reclaiming, enclosing or clearing of lands for agricultural purposes ; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture ; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord :

Explanation II.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement :

(5) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land :

(6) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for special contract, would be liable to pay rent for that land :

(7) "pay," "payable" and "payments" used with reference to rent include "deliver," "deliverable" and "delivery" :

(8) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him :

(9) "Revenue-officer" and "Settlement Officer," in any provision of this Act, mean, respectively, such Revenue-officer or Settlement Officer appointed under the Central Provinces Land Revenue Act, 1881, as from time to time amended, as the Local Government may, by notification in the local official Gazette, direct to discharge the functions of a Revenue officer or Settlement Officer (as the case may be) under that provision.

*(Chapter I—Preliminary—Rules under Section 2.)**Powers of Revenue-officers.*

Notification
No. 1747,
dated the
26th April
1899.

In exercise of the power conferred by sub-section (9) of section 2 of the Central Provinces Tenancy Act XI, 1898, and in supersession of Notifications Nos. 54-55, dated the 15th December 1883, and 2350, dated the 23rd April 1890, the Chief Commissioner is pleased to direct that the Revenue-officers specified in the third column of the subjoined schedule shall discharge the functions of Revenue-officers with respect to the cases specified in the second column.

Schedule.

Section.	Functions under the section.	Revenue-officers.
8	Receiving of rent deposits	Tahsildar or Naib-Tahsildar in the absence of the Tahsildar or Revenue-officer of superior class.
10	Imposition of a penalty for the exaction of anything in excess of rent legally payable.	The Deputy Commissioner of the district.
12	Imposition of a penalty for refusing receipt or giving a defective receipt.	Do.
13	Rent enhancement on the ground of landlord's improvement.	Deputy Commissioner.
14	Rent reduction when effect of improvement ceases.	Do.
15	Alteration of rent with alteration or deterioration of area.	Do.
16	Alteration of rent with alteration of assessment.	Do.
17	Commutation of rent payable in kind ...	Do.
18	Remission or suspension of rent ...	The Deputy Commissioner of the district; or an Assistant Commissioner invested with the powers of a Deputy Commissioner, and specially authorized by him in this behalf in any case or group of cases.

(Chapter I—Preliminary—Powers of
Revenue-officers—Rules under Section 2).

Section.	Functions under the section.	Revenue-officers.
19	Issue of a commission to divide, estimate, or appraise a crop.	Tahsildar or Revenue-officer of superior class.
30	Imposition of penalty for illegal distraint or illegal removal of produce.	The Deputy Commissioner of the district.
36 (1)	Avoidance of surrenders and placing heirs in possession.	Do.
36 (4)	Confirmation of <i>bona fide</i> surrenders ...	Do.
41	Fixation of value of transferred absolute-occupancy holding.	Deputy Commissioner.
45 (1)	Fixation of rent for <i>sir</i> land in which occupancy rights have accrued.	Do.
45 (2) & (3)	Receipt and disposal of applications for sanction to transfer of cultivating right in <i>sir</i> land and endorsement of sanction upon documents.	The Deputy Commissioner of the district.
45 (4)	Partition of <i>sir</i> land, in part of which occupancy rights have accrued.	Deputy Commissioner.
47 & 48	Avoidance of transfer of occupancy holding and placing the heir or landlord in possession, or reinstating transferor.	The Deputy Commissioner of the district.
50	Fixation of occupancy rent during currency of settlement in the districts of Nimar, Chanda and Sambalpur.	The Deputy Commissioner.
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58	Ejectment and reinstatement of village-service tenants, and placing successor in possession.	Do.
61	Declaration of sub-tenant to have the rights of an ordinary tenant.	The Deputy Commissioner of the district.
62 (2)	Fixation of rent of cultivating partner as an ordinary tenant.	Deputy Commissioner.

*(Chapter I—Preliminary—Powers of
Revenue-officers—Rules under Section 2.)*

Section.	Functions under the section.	Revenue-officers.
64 & 65 (1)	Issue of notice of enhancement, and receipt of agreement by tenant.	Tahsildar or Revenue-officer of superior class.
65 (2) & 66	Proceedings for ejectment, and determination of a fair rent.	Deputy Commissioner.
71 & 72	Avoidance of transfer of ordinary holding, and placing heir or landlord in possession, or reinstating transferor.	The Deputy Commissioner of the district.
73	Proceedings for the purchase of occupancy rights.	Deputy Commissioner.
78	Fixation of a fair rent on a reference by the Civil Court.	Do.
85	Execution of decree by ejectment of tenant.	Tahsildar or Revenue-officer of superior class.
92	Reinstatement of tenant irregularly ejected.	Do.
93	Ascertainment or extent or condition of holding.	Do.

and

(10) "tenant" means a person who holds land of another person, and is, or but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or thekadar of proprietary rights.

Explanation I.—An inferior proprietor is not, as such, a tenant.

Explanation II.—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpur District, is a tenant of the farmer or gaontia for the time being.

(Chapter II—Of Tenants generally—
Sections 3—6.)

CHAPTER II.

OF TENANTS GENERALLY.

A.—Classification of Tenants.

3. There shall be five classes of tenants, Classes of tenants.
namely :—

- (1) absolute-occupancy tenants ;
- (2) occupancy tenants ;
- (3) village-service tenants ;
- (4) sub-tenants ; and
- (5) ordinary tenants.

B.—Provisions relating to rent.

4. In all suits and proceedings between land- Presumption as to amount of rent payable.
lord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year.

5. Save, as provided in sections 66 and 78, an Date from which order fixing rent operates.
order fixing, altering or commuting the rent of a holding on an application under this Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date of the application, or from any subsequent day, or if it is made on the ground of increase, diminution or deterioration of the holding, from the date of that increase, diminution or deterioration, or from any subsequent day.

6. Rent shall be payable in such instalments Time for payment of rents.
and on such dates as the Local Government may, by notification in the local official Gazette, prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract according to local usage.

*(Chapter II—Of Tenants generally—
Sections 7—8.)*

Notification
No. 4366,
dated the 4th
September
1884, as
amended by
Notifications
No. 1748,
dated the 26th
April 1899
and No. 221,
dated the
12th January
1904.

I.—The instalments in which the annual rent of an absolute occupancy, occupancy, or ordinary tenant in any mahal are payable shall not exceed in number the instalments in which the land revenue assessed upon that mahal is payable to Government.

II.—Unless the Chief Commissioner shall otherwise direct by an order embodied in the record-of-rights of any village or class of villages, an absolute-occupancy, occupancy or ordinary tenant in any mahal shall not be compelled to pay on account of the autumn harvest an instalment of rent exceeding the amount which bears the same proportion to his whole yearly rent as the amount payable to Government on account of that mahal for the autumn harvest bears to the whole yearly revenue assessed upon the mahal.

NOTE.—The amendment is intended to meet the case of villages in which siwai income is of some importance and is realized by the malguzar at a different season from that to which the crops grown in the village belong. In such cases it is sometimes found expedient to divide the rent instalments of a mahal differently from the revenue instalments.

III.—The date upon which rent instalments of all classes of tenants shall fall due shall be one month before the date on which the corresponding instalment of land revenue due to Government, except in the jagirs of the Hoshangabad and Chhindwara districts in which the instalments shall be payable on the dates noted below :—

	Kharif.	Rabi.
Hoshangabad	... 15th December	... 15th April.
Chhindwara	... 1st December	... 15th April.

IV.—In revenue-free mahals, the number of instalments in which rents are payable, the dates on which they fall due and the proportion payable on account of the autumn harvest shall be the same as those in revenue-paying mahals under similar conditions in the same tahsil.

Rents payable to a number of landlords.

7. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the Local Government may, by notification in the local official Gazette, make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others: and subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

Power to deposit rent in certain cases with Revenue-officer.

8. (a) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant.

(Chapter II—Of Tenants generally—
Section 9.)

(b) when a tenant, in the case mentioned in section 7, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and

(c) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

The tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of rent which he believes to be due: and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable for the issue of the notice next herein-after referred to.

NOTE I.—The Judicial Commissioner has been consulted by the Chief Commissioner and has given it as his opinion that a tender of rent by special rent money-order is without doubt a legal tender.

NOTE II.—An application made under this section must be stamped with an 8 annas Court-fee stamp: Schedule II, Article (1) b of Act VII of 1870.

9. (1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due. Effect of depositing rent.

(2) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims, or is entitled to, the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

*(Chapter II—Of Tenants generally—
Sections 10—14.)*

Penalty for
levy of any-
thing in ex-
cess of rent
by landlord.

10. A landlord who, except under any special enactment for the time being in force, levies from a tenant anything in excess of the rent legally payable shall, on the application of the tenant, be liable under the order of a Revenue-officer, not below the class of Deputy Commissioner, to pay as penalty such sum as the Revenue-officer thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value. Such sum shall be awarded to the tenants as compensation.

Presumption
as to pay-
ment by ten-
ant to land-
lord.

11. Where rent is due, every payment by a tenant to his landlord shall, unless the tenant otherwise agrees, be presumed to be a payment on account of rent.

Penalty for
refusing re-
ceipt or giv-
ing defective
receipt.

12. A landlord who refuses to grant a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding and the period or crop, in respect of which the payment is made, or the amount paid shall, on the application of the tenant, be liable, under the order of a Revenue-officer, to pay as penalty such sum not exceeding double the amount or value of the rent so paid as the Revenue-officer thinks fit. Such sum shall be awarded to the tenant as compensation.

Enhancement
of rent when
productive
power of hold-
ing increased
by landlord.

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made since the present rent was fixed and in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Reduction of
rent when
effect of im-
provement
ceases.

14. When the rent of any tenant has been enhanced under section 13 or was fixed at the current settlement with regard to an improvement made by or at the expense of the landlord, a Revenue-officer may at any time, on the application of the tenant, modify or cancel the order for enhancement, or reduce such rent, on the ground

(Chapter II—Of Tenants generally—
Sections 15—17.)

that the effect of the improvement in increasing the productive power of the holding has diminished or ceased since the date of the order for enhancement or of the last modification of such order made under this section, or since the rent was fixed by the Settlement Officer, as the case may be.

15. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or by any other calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

Power to alter rent when holding is increased, diminished or deteriorated.

NOTE.—It is only with respect to an encroachment made subsequent to settlement that a malguzar can apply for an enhancement of rent. When the alleged encroachment had taken place previous to a summary re-settlement and the malguzar had kept silent till the settlement operations were over, it was held that he was not entitled to an enhancement of rent on the ground of such encroachment.

16. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force,—

Power to alter rent in case of new assessment.

- (a) land revenue is for the first time made payable in respect of the holding, or
- (b) land revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

17. (1) In all cases in which a tenant, other than an ordinary tenant whose holding consists entirely of

Commutation of rent payable in kind.

(Chapter II—Of Tenants generally—
Section 18.)

sir land, or than a sub-tenant, pays rent for a holding in kind, or on the estimated value of a portion of the crop or at rates varying with the crop, or partly in one of these ways and partly in another or others, the landlord or tenants may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement Officer, or at any other time to a Revenue-officer, to commute the rent to a fixed money rent.

(2) On the receipt of the application, the officer, after giving notice of the application to the other party and hearing him, if he appears, may fix the sum to be paid as money rent, and may, for reasons to be recorded by him in writing, order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so fixed.

(3) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

Remission
and suspen-
sion of rent
consequent
on like treat-
ment of land
revenue.

18. (1) Whenever from any cause the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, by general or special order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land revenue of which the payment has been remitted or suspended bears to the whole of the land revenue payable in respect of the land, and may distribute the amount so remitted or suspended amongst the tenants holding such land as may seem to him to be equitable, having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land revenue :

Provided that, where the rent is taken by actual division of the produce, no portion of it shall be suspended under this section.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court,

(Chapter II—Of Tenants generally—
Section 19.)

(3) No suit shall lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended, and, so long as a suit does not lie, such rent shall not be legally payable within the meaning of section 10.

(4) Where the payment of rent has been suspended, the period of suspension shall be excluded in the computation of the period of limitation prescribed for bringing a suit for the recovery of the rent.

(5) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, as far as may be, to land of which the land revenue has been wholly or in part released, compounded for or redeemed, in any case in which, if the land revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, have been remitted or suspended.

(6) The provisions of this section relating to rent shall apply also, as far as may be, to revenue payable by malik-makbuzas, to revenue and malikana payable by inferior proprietors, and to thekajamas payable by thekadars of proprietary rights, and the provisions of section 10 apply in cases where revenue, malikana or theka-jama has been collected in contravention of this section.

NOTE.—Attention is called to Judicial Commissioner's ruling in Central Provinces Law Reports, Volume XIV, page 138. In the absence of a general or special order by a Revenue-Officer under sub-section (6) of section 18 of the Tenancy Act a thekadar is not relieved from payment of theka-jama merely by reason of the fact that by an order passed under sub-section (1) certain rents have been remitted or suspended.

C.—Commissions for dividing or estimating crops.

19. Whenever rent is taken by division of the produce, or by estimate or appraisement of the crops, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or ap- Commission
for dividing
or estimating
crops.

(Chapter II—Of Tenants generally—
Sections 20—22.)

praisement, or if there is a dispute about the division of the produce or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop.

Appointment
of assessors.
etc

20. (1) When a Revenue-officer appoints a commissioner for any of the purposes mentioned in section 19, the officer may, in his discretion, direct the commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisement.

(2) The commissioner so appointed shall make the division, estimate or appraisement in accordance with those instructions.

Remedy for
error in divi-
sion.

21. (1) If in any division under the foregoing provisions either party receives less than the share to which he is entitled, he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him at the price which prevailed on that date.

(2) If no such suit is instituted within the said period of three months, the division, shall for all purposes be deemed as between the parties thereto to have been rightly made.

Procedure
when crop has
been estimat-
ed or apprais-
ed.

22. (1) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisement shall be reduced to writing and signed by the commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(2) The Revenue-officer shall consider the commissioner's report, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisement, and that order shall be final.

(Chapter II—Of Tenants generally—
Sections 23—26)

D.—Of the Landlord's lien on the produce of a Holding.

23. In sections 24 to 30 (both inclusive) the produce of a holding means—

Definition of
"produce
of a holding".

(a) crops and other products of the earth standing or ungathered on the holding ;

(b) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

24. Where an arrear of rent is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding :

Power of
landlord, by
notice, to
prohibit re-
moval of
produce.

Provided that—

first, such a prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Civil Court ; and

secondly, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

25. If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs ; and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce.

Effect of in-
stituting suit
for rent
while notice
is in fore.

26. A notice under section 24 shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Right to
reap, etc.,
produce, not
affected.

(Chapter II—Of Tenants generally—
Sections 27—29.)

Contents and
service of
notice; time
for which it
remains in
force.

27. (1) Every notice under section 24 shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount.

(2) The notice shall be served on the person in charge of the produce, and shall, subject to the provisions of section 25, remain in force until the expiration of thirty-five days from the date of service of the notice, or if the rent specified in the notice is paid previously to the expiration of such thirty-five days, until such rent is paid.

Procedure
when produce
is under
attachment.

28. (1) If the produce of the holding on which the arrear is due is under attachment by order of a Civil Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(a) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application; and

(b) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale, in the first instance, to satisfy the claim.

(2) The finding of a Court, on any inquiry under this section shall have the force of a decision in a suit between the parties.

Conflict
between
rights of
superior and
inferior
landlord.

29. Where land is sub-let and a conflict arises under sections 24 to 28 (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail

*(Chapter II—Of Tenants generally—
Sections 30—31)*

30. (1) Any landlord of a holding who dis- Penalty
for illegal
distrain by
landlord, and
for illegal
removal of
produce. trains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and

where a notice in respect of the produce of a holding has been served under section 27 and is in force, any person who, knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets the removal of the produce, except for any of the purposes mentioned in section 26,

shall, on the application of either landlord or tenant, be liable under the order of a Revenue-officer to fine which may extend to five hundred rupees.

(2) Nothing in this section, and, except as provided in section 546 of the Code of Criminal V of 1898. Procedure, 1898, no proceeding under this section shall effect the right of any person to recover compensation in a civil suit.

E.—Of Improvements and Compensation therefor.

31. (1) In respect of the holding of an absolute-occupancy tenant or occupancy tenant, or of the holding of an ordinary tenant which does not consist entirely of *sir* land, the tenant shall be entitled to make improvements. Right to
make im-
provements.

(2) If the landlord of any such holding as is referred to in sub-section (1) desires that any improvement be made in respect of the holdings, he may deliver, or cause to be delivered, to the tenant a request in writing calling upon him to make the improvement within a reasonable time, and, if the tenant is unable or neglects to comply with that request, may, subject to such rules of procedure as the Local Government may, by notification in the local official Gazette, prescribe in this behalf, make the improvement himself.

(3) In respect of the holding of an ordinary tenant which consists entirely of *sir* land, the landlord shall be entitled to make improvements.

(Chapter II—Of Tenants generally—
Section 31.)

Notification
No. 3667,
dated the
25th July
1884, as
amended by
Notification
No. 1749,
dated the
26th April
1899.

I.—Every request made under section 31 (2) of the Central Provinces Tenancy Act shall be delivered through the Tahsildar of the tahsil in which the land to which it relates is situated, and shall be drawn out and presented in duplicate for delivery to the Tahsildar.

II.—On receipt of such request, together with a service fee of 4 annas, the Tahsildar shall cause one copy to be delivered to the person therein specified, and when the copy has been so delivered the Tahsildar shall certify the fact of the delivery on the other copy, and return it to the person by whom the request was made.

III.—If the request be from a landlord to a tenant requiring such tenant to make on his own land an improvement which the landlord would otherwise effect by carrying out works on land other than that in the tenant's occupation, it shall specify (1) the nature of the improvement, (2) the land which will be affected by it, (3) the method in which the landlord proposes to make the improvement if the tenant fails to do so, and (4) a reasonable time within which the tenant is to complete the improvement if he elects to make it himself. If the tenant fails to make the improvement by the date named, the landlord may proceed to make it himself.

Provided that nothing in this rule shall be held to prevent a tenant from contesting the legality of the request if the landlord applies for enhancement, under section 13 of the Act, on the ground of the improvement.

IV.—If the request be from a landlord to a tenant asking him to make an improvement to his land which the landlord would otherwise make by works carried out on land in the tenant's occupation, it shall specify (1) the nature of the improvement, (2) the land which would be affected by it, (3) the portion of the tenant's holding which it will be necessary to enter upon to carry out such works, (4) a reasonable time within which the tenant is to complete the improvement if he elects to make it himself.

V.—If in order to effect an improvement which the tenant has neglected to make, a landlord desires to enter upon land in the occupation of a tenant to whom a request has been delivered under Rule IV, the landlord shall apply for authority to enter to a Revenue-officer, not below the grade of an Extra-Assistant Commissioner, filing the duplicate of the request in proof of its delivery and paying a service fee of 4 annas.

VI.—The Revenue-officer to whom application has been made under the preceding rule shall summon the tenant, and if the request was legal and in order and the tenant has failed to comply with it, the Revenue-officer shall endeavour to arrange by agreement the method in

*(Chapter II—Of Tenants generally—
Section 32.)*

which, and the conditions on which, the improvement is to be made. If such agreement be made he shall himself record it. If the parties do not agree he shall determine—

- (1) the land which is to be occupied by the landlord in making such improvement;
- (2) the dates on which such occupation is to commence and terminate;
- (3) the amount of compensation (if any) to be paid to the tenant for the occupation of such land and for damage done in making the improvement, and shall record such determination.

VII.—If an agreement or determination recorded under the preceding rule provided for the occupation by the landlord of land in the possession of the tenant, the landlord shall be entitled to receive from the Revenue-officer written authority to enter upon and occupy such land.

Provided that, if it has been agreed or determined that the landlord is to pay compensation to the tenant for his occupation of such tenant's land or for damage done in making the improvement, the Revenue-officer may refuse to give such written authority until the landlord pays into Court the amount of the compensation.

VIII.—A written authority granted to the landlord under Rule VII shall clearly specify:

- (1) the land which is to be occupied by the landlord;
- (2) the dates on which such occupation is to commence and end;
- (3) the purpose for which the land is to be occupied;
- (4) the amount of compensation (if any) due to the tenant, and the account on which such compensation has been awarded, stating whether the compensation has been paid into Court or not, and shall only be held to warrant the landlord in acting strictly according to the terms set forth in it.

32. (1) If a tenant, or the person under whom he claims, has made an improvement in respect of his holding in accordance with this Act or with the landlord's consent otherwise than in accordance with this Act, he shall not be ejected until he has received compensation for the improvement, unless the improvement was begun by him after the institution of the proceedings which resulted in the decree or order for his ejectment.

Liab lity to
pay to tenant
on ejectment
compensation
for improve-
ments.

(2) A Civil Court making a decree for the ejectment of a tenant, or a Revenue-officer ordering

(Chapter II—Of Tenants generally—
Section 33.)

ejection in execution of a decree for arrears or otherwise, shall determine the amount of compensation (if any) due to him under this section, and shall stay execution until the landlord deposits the amount less any arrears of rent or costs that have been ascertained by the proceedings for such ejection to be due to him from the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(4) Improvements made by a tenant before the commencement of this Act, in lands other than *sir* land, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment
of compensa-
tion.

33. (1) The Local Government may, by notification in the local official Gazette, make rules requiring the Civil Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 32 for an improvement, such number of assessors as the Local Government thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(2) In estimating the compensation to be awarded under section 32 for an improvement, regard shall be had—

- (a) to the amount by which the letting value, or the produce of the holding, or the value of that produce, is increased by the improvement;
- (b) to the labour and capital required for the making of such an improvement; and
- (c) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

*(Chapter II—Of Tenants generally—**Section 33.)*

(3) When the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

I.—When it is necessary for a Court to estimate the compensation to be awarded under section 33 of the Central Provinces Tenancy Act, 1898, the Court shall for that purpose associate with itself not less than two, and not more than six, assessors.

Notification
No. 3246,
dated the 5th
July 1884.

II.—The Deputy Commissioner shall draw up for every tahsil in his district a list of such persons, being proprietors or cultivators of land or patwaris, as he considers to be qualified for the office of assessor. The list so prepared shall be revised by the Deputy Commissioner once in every year.

III.—A copy of the list for each tahsil shall be kept at the office of the Tahsildar of that tahsil and the list for the whole district shall be kept at the office of the Deputy Commissioner.

IV.—Before fixing a day for hearing, the Court shall in the presence of the parties choose from the list so prepared assessors who reside within the limits of the tahsil in which the land in question is situate; or who, when the tahsil has been divided into Revenue Inspector's circles, reside within the limits of the Revenue Inspector's circle in which the land in question is situate.

V.—When the Court has chosen the assessors it shall call on each of the parties to the case to state whether he has any objection to take to any of the assessors.

VI.—Any objection taken to an assessor on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed—

(a) some presumed or actual partiality in the assessors;

(b) any other circumstances, which, in the opinion of the Court, renders him improper as an assessor.

VII.—Every objection taken to an assessor shall be decided by the Court.

The decision, together with the grounds thereof, shall be recorded and shall be final.

VIII.—If the objection is allowed, the Court shall choose another assessor, and when the assessors have been finally chosen, the Court shall fix a date for hearing the case

(Chapter II—Of Tenants generally—
Section 33.)

ejection in execution of a decree for arrears or otherwise, shall determine the amount of compensation (if any) due to him under this section, and shall stay execution until the landlord deposits the amount less any arrears of rent or costs that have been ascertained by the proceedings for such ejection to be due to him from the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(4) Improvements made by a tenant before the commencement of this Act, in lands other than *sir* land, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment
of compensa-
tion.

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(2) In estimating the compensation to be awarded under section 32 for an improvement, regard shall be had—

(a) to the amount by which the letting value, or the produce of the holding, or the value of that produce, is increased by the improvement;

(b) to the labour and capital required for the making of such an improvement; and

(c) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

*(Chapter II—Of Tenants generally—**Section 33.)*

(3) When the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

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III.—A copy of the list for each tahsil shall be kept at the office of the Tahsildar of that tahsil and the list for the whole district shall be kept at the office of the Deputy Commissioner.

IV.—Before fixing a day for hearing, the Court shall in the presence of the parties choose from the list so prepared assessors who reside within the limits of the tahsil in which the land in question is situate; or who, when the tahsil has been divided into Revenue Inspector's circles, reside within the limits of the Revenue Inspector's circle in which the land in question is situate.

V.—When the Court has chosen the assessors it shall call on each of the parties to the case to state whether he has any objection to take to any of the assessors.

VI.—Any objection taken to an assessor on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed—

- (a) some presumed or actual partiality in the assessors;
- (b) any other circumstances, which, in the opinion of the Court, renders him improper as an assessor.

VII.—Every objection taken to an assessor shall be decided by the Court.

The decision, together with the grounds thereof, shall be recorded and shall be final.

VIII.—If the objection is allowed, the Court shall choose another assessor, and when the assessors have been finally chosen, the Court shall fix a date for hearing the case

(Chapter II—Of Tenants generally—

Sections 34—35.)

Avoidance of provisions barring right to make, or be compensated for, improvements.

34. An entry in the record-of-rights of any village or a stipulation in a contract providing—

(a) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making such improvements on his holding as he is entitled to make under this Act, or

(b) that a tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation,

shall be void.

Miscellaneous.

Surrender of holdings.

35. (1) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding:

Provided that, notwithstanding such surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(2) In the following cases the Court shall presume that notice was duly given as required by the proviso to sub-section (1), that is to say:—

(a) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender;

(b) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate; and

(c) if the landlord himself, at any time during the agricultural year next following the surrender, cultivates or lets to another tenant the holding or any part thereof.

(3) A tenant of a survey-number in a village let in farm by the Government, or held by a gaontia.

(Chapter II—Of Tenants generally—

Section 36.)

in the Sambalpur District, shall be deemed to have surrendered his holding if he refuses to agree to the rent fixed under this Act for the holding, but shall not continue liable under sub-section (1) for the rent of his holding.

(4) Any tenant other than an absolute-occupancy tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding :

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land shall be excluded.

36. (1) If an occupancy tenant surrenders his holding under section 35, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs may, on application to a Revenue-officer, made at any time within two years after the date of the surrender, be placed in possession of the holding, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the surrendering tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

Surrender of
occupancy
tenant's hold-
ing.

(2) As among several persons so entitled and desirous of being placed in possession of the holding the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the holding if the tenant had died.

(3) When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the surrender to appear before him on a date to be fixed; and shall, after hearing such of the persons

*(Chapter II—Of Tenants generally—**Rules under Section 36.)*

to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desired to be placed in possession is first entitled to be so placed.

(4) Sub-sections (1), (2) and (3) shall not apply in cases where, subject to any rules made by the Local Government in this behalf, a Revenue-officer has decided, after an enquiry made on the application of either landlord or tenant, that the surrender is *bonâ fide* and has not been made with the object of evading the provisions of section 45 or section 46.

Rules for the determination of the liabilities of person claiming possession of land in avoidance of surrenders or illegal transfers under section 36.

[The same rules contain the procedure to be followed in applications under sections 47 and 71.]

I.—The Revenue-officer, when he invites the attendance of claimants to the holding by the issue of notices and proclamations, shall at the same time issue notices to the landlord of the holding, and to any persons to whom the surrendering or transferring tenant may appear to be indebted for advances made for the necessary expenses of cultivation, warning them that if they wish their claims on account of arrears of rent or of advances as aforesaid to be accepted by the new tenant who may be put into possession of the holding, they must appear and state their claims on the date fixed for the attendance of claimants to the holding. Such date shall not be less than six weeks from the date of the notices. A proclamation similarly warning all creditors of the surrendering or transferring tenant shall at the same time be posted in the village in or from which the holding is cultivated.

II.—No claim on account of arrears of rent or of advances as aforesaid shall be admitted which is not put forward on or before the date fixed under the preceding rule.

III.—Claims on account of rental arrears shall be checked by reference to the rental accounts of the village. Arrears which have been outstanding for more than three years, or which are time-barred under section 94 (2) or otherwise, shall not be admitted, whether secured by bond or not.

IV.—Alleged advances on account of seed-grain shall be checked by reference to the area shown in the village papers as sown by the tenant during the year in which they are stated to have been made. Claims on account of

Notification
No. 1750,
dated the
26th April
1899.

(Chapter II—Of Tenants generally—
Rules under Section 36.)

advances of seed-grain, or of money advanced for the purchase of seed-grain or bullocks, shall not be admitted if, in the opinion of the Revenue-officer, the seed-grain, or money was not actually used for the cultivation of the holding.

V.—Interest shall be allowed from the date of the advance at the rate which would have been charged under similar circumstances by the Court of Wards of the district; such rate to be declared by the Deputy Commissioner.

VI.—If the heir or heirs who have been decided to be first entitled to be placed in possession of the holding refuse acceptance of the liabilities as determined under the foregoing rules, acceptance shall be offered to such other claimants to the holding as may have appeared, and are entitled to possession under the provisions of the Act, in the order in which they are so entitled, and finally to the landlord if present and so entitled: and the person by whom the liabilities are accepted shall be placed in possession of the holding.

VII.—Possession of the holding shall not be given till the person who has accepted the liabilities as determined under the foregoing rules has executed a bond or bonds for their amount in favour of the other persons whose claims have been admitted. The bond shall provide for the payment of interest at the rate fixed under Rule V.

Instructions regarding the confirmation as bonâ fide of surrenders by Occupancy Tenants under section 36 (4).

The surrender by an occupancy tenant of his holding under section 35 of the Tenancy Act can be effected only in one of two ways:—

- (i) by *express surrender* at the end of an agricultural year [sub-section (1)] ; or
- (ii) by *implied surrender*, namely, when he has left the holding uncultivated and the rent unpaid for two years [sub-section (4)].

2. In cases of *express surrender*, the surrender takes effect at once, though the tenant is still liable for a year's rent, unless he gave notice to the landlord at least 30 days before he surrendered [proviso to sub-section (1)]. But this notice is presumed to have been duly given if the tenant ceased to reside in the village 30 days before the end of the agricultural year; and to have been waived by the landlord if he has given the tenant a new holding in the same village, or if he himself cultivates the land or lets it to another [sub-section (2)].

The circumstances contemplated in clauses (a), (b) and (c) of sub-section (2) however create presumptions *not* of surrender but of *notice* only in cases where *express surrender* is made. All that they affect is the liability of the

(Chapter II—Of Tenants generally—
Rules under Section 36).

tenant for the next year's rent. They in no way affect his right in the holding which, unless expressly surrendered, will not lapse until he has left his holding uncultivated and his rent unpaid for two complete years.

3. The *implied* surrender contemplated by sub-section (4) on the other hand, is not presumed until the holding has been uncultivated and its rent unpaid for two complete years.

So far these provisions have made no change in the law as it stood under Act IX of 1883; and in cases of abandonment, the landlord is still, as before, liable to have any arrangements for the management of the holding that he may make upset by the return of the tenant before the expiry of the two years' grace.

4. Under the new Act, the nearest heir of the surrendering tenant, who will take over his just liabilities in connection with the land, is entitled to be placed in possession of the holding at any time within two years of the date of the *surrender*, unless the landlord or tenant has obtained an order from a Revenue-officer under sub-section (4), declaring the surrender to have been made *bonâ fide* and not with the object of evading the provisions of section 45 or section 46 of the Act.

5. It may be noted that when an occupancy tenant dies, if he leaves no heirs entitled to inherit, his right lapses to the landlord and there can be no surrender. If he leaves such heirs, his rights devolve upon them, and it is they alone who can surrender the holding.

6. Two sorts of applications will arise under these new provisions :—

- (a) the claim of the heir of a surrendering tenant to be placed in possession of the holding ;
- (b) the claim of the landlord or tenant to have a surrender declared *bonâ fide*.

The procedure to be followed by Revenue-officers in proceedings of the first kind has been prescribed by rules made by the Chief Commissioner under section 36, and need not be further discussed.

7. As regards the second kind of application, precise rules cannot well be formulated until experience has been gained of the manner and extent in which recourse is had by landlords and tenants to the procedure of this sub-section; but the following general instructions are laid down tentatively for the guidance of Revenue-officers :—

General.

- (i) A surrender under the Act can be made by tenant only, and to the landlord only, and not to any other person,

(Chapter II—Of Tenants generally—
Rules under Section 36.)

- (ii) An application under section 36 (4) must be made either by the landlord or by the tenant who has surrendered his holding and not by any other person.
- (iii) In the case of an *express* surrender, the application must be made after, and within two years of, the date of the surrender.
- (iv) In the case of an *implied* surrender under section 35 (4), the application must be made not less than two or more than four years after the holding was last cultivated or the rent last paid by or on behalf of the tenant as such.
- (v) The application may be taken up at any time before a final order putting the tenant's heir into possession has been passed under section 36 (1). If the application is made during the progress of proceedings taken on the application of an heir, former application should be disposed of on its merits before the latter is proceeded with.
- (vi) The application may be sent for enquiry into the facts to the Tahsildar; but the final order of confirmation must be passed by the Deputy Commissioner himself, who alone is empowered under section 2 (9).
- (vii) If the Deputy Commissioner decides in favour of the applicant, his finding shall be in the following form :—" I find that the surrender is *bonâ fide*, and has not been made with the object of evading the provisions either of section 45 or of section 46 of the Act."

Surrenders in evasion of section 45.

- (viii) An express surrender of occupancy rights acquired under section 45 may have been made prospectively before their accrual, in which case it is not a surrender under the Act [see (i) above] and cannot be the subject of an application under section 30 (4); or it may have been made after their accrual, but before they have been exercised, in which case it is in plain evasion of section 45, and cannot be declared *bonâ fide*.
- (ix) An implied surrender of such occupancy rights arising from their not having been exercised and the rent not paid, for the two years immediately following their accrual, is also in plain evasion of section 45, and cannot be declared *bonâ fide*.

*(Chapter II—Of Tenants generally—
Rules under Section 36.)*

- (x) No express or implied surrender of occupancy rights which have accrued under section 45 shall be declared *bonâ fide*, whether on the application of the landlord or of the tenant, unless the tenant has cultivated the holding for such a lengthened period as to create a strong presumption of *bonâ fides*, and unless circumstances exist (as to which, see below) which would warrant the Deputy Commissioner in confirming the surrender if the occupancy rights had been originally acquired by the tenant otherwise than under section 45.

Other Surrenders.

- (xi) In all cases in which an occupancy tenant has surrendered his holding in return for a pecuniary or other valuable consideration, whether direct or indirect, or in which the tenant has been succeeded in the holding by his creditor, the surrender should be deemed as in evasion of section 46 and should not be confirmed as *bonâ fide*.
- (xii) Speaking generally, the Deputy Commissioner should not confirm a surrender as *bonâ fide* unless he is satisfied that the tenant who surrendered was genuinely no longer able to cultivate the land himself or to arrange for its cultivation, and that there was no person to whom, under the first proviso to section 46 (3) he could transfer the land, and who was willing to take it as a gift and able to manage it.

8. The above instructions are intended to guide rather than to fetter the discretion of a Deputy Commissioner in proceedings under this section. The object of sub-sections (1), (2), and (3) is to frustrate evasions of the law which affirms an ex-proprietary occupancy right in *sir* land and forbids all alienation of occupancy right by means of transfer in the guise of surrenders. The object of sub-section (4) is, "that landlords may not be hampered in arranging for the cultivation of lands thrown on their hands by *bonâ fide* surrenders (*Report of Select Committee*). It must be remembered, however, that under the Act of 1883, surrenders of occupancy holdings were extremely rare; and that no surrender should be confirmed under the present which would not have been made under the past law. It should also be borne in mind that, while an order declaring a surrender to be *bonâ fide* absolutely bars any claim by the heirs, and renders inoperative the precautions which the law provides for the protection of its provisions, the refusal

(Chapter II—Of Tenants generally—Sections 37—
38—Chapter III—Of Absolute-occupancy Tenants—Sections 39—40.)

to pass such an order has no effect either way. It simply leaves the landlord and the tenant exactly as they stood before; and unless the heirs take action within the two years allowed, the surrender becomes effectual by limitation. Finally, surrenders of the ex-proprietary statutory rights created by section 45 should be viewed *with the utmost suspicion*. The new provisions, which are designed for the benefit of the family to which the land belonged, will be distasteful both to the spendthrift seller and to the speculative buyer; and it is very probable that there will be a general attempt to evade them by the device of surrender. If the circumstances are such that the provisions are unsuitable, the proper course is to obtain sanction under section 45 (2); and Deputy Commissioners should take care that they are not made use of, under section 36 (4), to set aside the law.

37. When a person, at the time of taking a theka or farm, is a tenant of any land comprised therein, his interest as tenant shall not be effected by reason only of his taking the theka or farm. Tenant taking theka or farm.

38. Nothing in this Act regarding the rights of an absolute-occupancy tenant, an occupancy tenant or an ordinary tenant shall be deemed to apply to the tenant of any land situate within the limits of any forest land or waste land which has been declared to be a reserved forest under the Indian Forest Act, 1878. Provisions regarding tenant right not applicable to tenant of land in reserved forest.

VII of
1878.

CHAPTER III.

OF ABSOLUTE-OCCUPANCY TENANT.

39. Every person who, at the commencement of this Act, is the tenant of any holding in respect of which he, or a person whose rights he has acquired, had been recorded in any record-of-rights made before the first day of January 1884, as an "absolute-occupancy raiyat," or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute-occupancy tenant of that holding. Definition of "absolute-occupancy tenant."

40. (1) The rent of the holding of every absolute-occupancy tenant shall be fixed by the Settlement Officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall Rents fixed for period of settlement.

*(Chapter III—Of Absolute-occupancy Tenants—
Section 41.)*

not be altered during the currency of the settlement except under the provisions of section 13, section 14, section 15 or section 17.

(2) The rent payable by any such tenant in respect of his holding at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which his holding is comprised.

Right
heritable and
transferable
after notice
to landlord
who may
claim to
purchase.

41. (1) The right of an absolute-occupancy tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(2) If an absolute-occupancy tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

(3) If the intended transfer is by sale or gift, the landlord may, within the said period of one month—

(a) claim to purchase the absolute-occupancy right at such value as a Revenue-officer may, on application made to him in this behalf, fix; or

(b) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(4) If the intended transfer is by mortgage or sub-lease, the landlord may, within the said period of one month, claim to purchase the absolute-occupancy right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

*(Chapter III—Of Absolute Occupancy Tenants—
Sections 42—43.)*

(5) When the right of an absolute-occupancy tenant in his holding is sold or is foreclosed by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right or pre-emption as is given in the case of a sale by clause (a) of sub-section

(3).

(6) When an application is made to a Revenue-officer under this section to fix the value of an absolute-occupancy right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged; and, if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(7) Any transfer made in contravention of this section shall be voidable at the instance of the landlord.

(8) If a person to whom an absolute-occupancy tenant has transferred possession of his holding in contravention of the provisions of this section be ejected by the landlord, the tenant may apply to a Revenue-officer within one year of the ejectment of such person to be reinstated in possession of the holding, and the Revenue-officer may order him to be reinstated in possession, on his depositing within a stated period, for payment to the landlord, the cost incurred by the landlord in procuring the ejectment. If the tenant fails to make such application within one year of the ejectment, or if he fails to deposit such cost within the period stated, his tenancy shall be deemed to have lapsed.

42. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute-occupancy tenant shall not be ejected from his holding by his landlord as such for any cause.

Absolute-
occupancy
tenant not
liable to
ejectment.

43. The rent of the holding of an absolute-occupancy tenant shall be the first charge on that holding, which shall, subject to the other provisions of this Act, be liable to sale in execution of a decree for arrears of the rent thereof.

Rent first
charge on
holding and
holding sal-
able in exe-
cution of
decree for
arrears of
rent.

(Chapter IV—Of Occupancy Tenants—
Sections 44—45.)

CHAPTER IV.

OF OCCUPANCY TENANTS.

Definition of
"occupancy
tenant."

44. Every tenant who, on the first day of January 1884, had held the same land continuously for twelve years, otherwise than as an absolute-occupancy tenant or a sub-tenant, and every person who is at the commencement of this Act, or thereafter becomes, a tenant (not being an absolute-occupancy tenant or a sub-tenant) of land in the districts of Chanda, Nimar and Sambalpur, shall be deemed to be an occupancy tenant of that land:

Provided that the land is not—

- (a) *sir* land, or
- (b) held in lieu of wages, or
- (c) held, in any district other than Sambalpur, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired or that the tenant shall quit the land at the termination of the lease.

Explanation I.—The occupation of any person from whom the tenant inherited or lawfully acquired his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

Explanation II.—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical redistribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him, is for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

Accrual of
occupancy
tenant-right
in *sir* land
on transfer
of right to
occupy as
proprietor.

45. (1) Notwithstanding any agreement to the contrary and save where sanction has been given under sub-section (2), a proprietor who, after the commencement of this Act, temporarily or permanently loses (whether under decree or order of a Civil Court or a Revenue-officer or otherwise) or transfers

(Chapter IV—Of Occupancy Tenants—
Section 45.)

his right to occupy *sir* land as a proprietor, shall at the date of such loss or transfers become an occupancy tenant of that *sir* land, and the rent payable by him as such shall be the sum determined at the current settlement as the rental value of such land, unless and until, on the application of either landlord or tenant, the rent is fixed by a Revenue-officer.

(2) An application by a proprietor for sanction to transfer his *sir* land without reservation of the right of occupancy provided for in sub-section (1) may be made to such Revenue-officer, not being below the class of Deputy Commissioner, as the Local Government may appoint for this purpose. Such officer shall sanction transfer in cases in which he is satisfied that the transferor is not wholly or mainly an agriculturist or that the property is self-acquired or has been acquired otherwise than by inheritance within the twenty years last preceding. In other cases he shall transmit the application to the Local Government, which may sanction the transfer in whole or in part, on the ground that—

- (a) the transferor, though wholly or mainly an agriculturist, will have other permanent means of subsistence after transferring the right to occupy his *sir* land; or
- (b) that the area of the *sir* land is too large for the transferor to manage after he has transferred his proprietary rights;
- (c) or that for any other reason the transfer ought to be permitted.

The Local Government may make rules for the guidance of Revenue-officers dealing with applications under this sub-section.

(3) Notwithstanding anything contained in the Indian Registration Act, 1877, no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer or surrender the rights of a proprietor in his *sir* land without reservation of the right of occupancy provided for in sub-section (1), or to be an agreement for such transfer or surrender, unless sanction to such

Grant of sanction in certain cases to transfer of the right to occupy *sir* land.

Prohibition in certain cases of registration of documents transferring right to occupy *sir* land.

*(Chapter IV—Of Occupancy Tenants—
Rules under Section 45.)*

transfer or surrender has been endorsed on the document in such manner and by such authority as the Local Government may direct.

Partition of undivided share in *sir* land.

(4) If there are two or more sharers in any *sir* land, and one of them becomes an occupancy tenant in it under this section, his previous share in such *sir* land shall, on application made by him or by his landlord, be divided off by a Revenue-officer, and his rights as occupancy tenant shall be limited to the land comprised in such share.

Saving of rights of ordinary tenants.

(5) The accrual of occupancy tenant-right under sub-section (1) shall not affect the rights of an ordinary tenant holding any part of the *sir* land at the time of such accrual.

Serving of prior registered documents.

(6) Nothing in this section shall affect a document duly registered before the commencement of this Act; and, on any surrender or transfer such as is described in sub-section (1) being made, decreed or ordered in pursuance of such a document, the rights of the parties to occupy the *sir* land shall accrue as if this Act had not been passed.

XXI of
1899

Bar of jurisdiction of Civil Courts.

(7) No Civil Courts shall question the validity of an order passed under this section granting or refusing sanction to the transfer of the right to occupy *sir* land as a proprietor.

Exception of bhogra.

(8) Nothing in this section shall apply to "bhogra" land.

Explanation.—For the purposes of this section a transfer includes a mortgage and a lease.

*Extract from the Proceedings of the Chief Commissioner
in the Revenue and Scarcity Department,
No. 1011—X-36-2, dated the
10th May 1907.*

Ambar and Mangal were the proprietors of the village of Niwari, each owning an eight annas share. Ambar sold his share to Mithan Lal, Ram Lal and Ami Lal, the present appellants reserving 31·37 acres of *sir* land in occupancy right. Mangal sold his share to Abdul Rahim and the recorded proprietors of the village are now Mithan Lal, Ram Lal and Ami Lal, who hold an eight annas share, and Abdul Rahim, who holds the other eight annas share. On the application of the former

¹ This clause has been substituted for the original clause 6 by XXI of 1899, Section 2.

*(Chapter IV—Of Occupancy Tenants—
Rules under Section 45).*

an imperfect partition of the village into two pattis was made by the Extra-Assistant Commissioner and was confirmed by the Commissioner.

2. Mithan Lal, Ram Lal and Ami Lal have now appealed to the Chief Commissioner objecting to the partition on the following grounds:—

- (1) That the holding of 31·37 acres held in occupancy right by the ex-proprietor Ambar, who sold his share to the appellants, has wrongly been included in Abdur Rahim's patti, and should have been included in that of the appellants;

* * * * *

4. In support of the first objection the appellants have cited the Judicial Commissioner's judgment in *Dhondba and Zingoba versus Vishwanath*, with intent to show that the land in question is still *sir* (Central Provinces Law Reports, XV, 143). It is there held that "where *sir* land has been distributed and is held in severalty each proprietor is the landlord of the land so held by him. If any proprietor sells his share and becomes occupancy tenant of the *sir* land previously held by him in severalty he is the tenant of the purchaser and not the tenant of the entire proprietary body". And in the same judgment the following passage occurs:—

"*Sir* land which has lost its character as such under the provisions of Section 45 of the Tenancy Act will no doubt cease to be *sir* land on the expiry of the Settlement then current because, by reason of Section 69 of the Land Revenue Act, it will no longer be recorded as *sir* land, but there is no apparent reason for holding that it ceases to be *sir* land at any earlier date. The question, however, is immaterial so far as the present appeal is concerned".

5. The Chief Commissioner observes that the remarks in this passage were not recorded as a legal ruling, but were merely *obiter dicta* of the Judicial Commissioner, and he is unable to accept them as a definite or final interpretation of the law. The words "has not lost" in Section 69, Sub-section (1) of the Central Provinces Land Revenue Act of 1881, as amended by Act XII of 1898, clearly imply that *sir* land which loses its character as such under the provisions of Section 45 of the Central Provinces Tenancy Act, 1898, loses its character as such at the time when it is transferred with reservation of the right of occupancy, and not subsequently on the expiry of the Settlement current when the transfer is made. The reference to Section 45 of the Central Provinces Tenancy Act made in Section 69 of the Central Provinces Land Revenue Act was inserted in order to prevent the Settlement Officer being obliged to record such land as *sir* under clause (a) of Section 4-A of the Act. The object was not to extinguish rights which still existed, but to prevent the Settlement Officer being obliged by the terms of the definition in Section 4-A to revive rights already lost under Section 45 of the Tenancy Act. The fact that there are cases, as elsewhere observed in the Judicial Commissioner's judgment, in which *sir* rights may be in abeyance, does not prove that they are so in the present case. The *obiter* expression of opinion by the Judicial Commissioner is entirely inconsistent with the purpose of Section 45 of the Tenancy Act, otherwise the provisions of that section could be evaded, and *sir* land transferred with reservation of occupancy rights would remain *sir* if occupied by the transferee after a surrender of his occupancy rights by the ex-proprietor, whereas such land is always, and, the Chief Commissioner considers, rightly, considered as *khudkasht* if so occupied. Unless the interpretation placed on these sections by the Chief Commissioner were correct, the exclusion in Section 69 would be meaningless. If the *sir* rights have not already been lost by the operation of Section 45, there would be no land at the time that the Settlement Officer made his record to which the exclusion could possibly apply.

(Chapter IV—Of Occupancy Tenants—
Rules under Section 45.)

The objection in the present case rests solely upon the view taken that the Judicial Commissioner's remarks constituted a ruling on the subject. This view is in the Chief Commissioner's opinion incorrect. The appeal is dismissed.

*Rules relating to the sanction of transfer of sir land
without reservation of an occupancy right, and to the
endorsement of the sanction upon documents.*

A.—GENERAL.

Notification
No. 1751,
dated the
26th April
1899, as am-
ended by
Notification
No. 4238,
dated the 26th
July 1902.

I.—Every application made to the Deputy Commissioner by a proprietor under sub-section (2) of Section 45 for sanction to transfer his *sir* land without reservation of the right of occupancy, provided for in sub-section (1) of the same section, shall be verified by the applicant in the manner prescribed by the Code of Civil Procedure for the verification of plaints, and shall be accompanied by a duly certified copy of the entry in the jamabandi of the last preceding year regarding the holding that includes the *sir* land in respect of which sanction is sought. The application need not be presented by the applicant in person, but may be forwarded by post, or in any other manner.

II.—Every such application shall contain the following particulars:—

- (a) the name, parentage, caste, occupation, and residence of both parties to the intended transfer;
- (b) the nature of and reasons for the intended transfer;
- (c) the grounds upon which sanction is sought;
- (d) the khasra number and area of each plot of *sir* land in respect of which sanction is sought, and the village, patti, or share in which the land is situated, together with the total area of such *sir* land included in each village, patti, or share; and
- (e) in regard to each such village, patti, or share, whether it was acquired by ancestors of the applicant for more than 20 years before the date of the application; and if not, the manner in which, the time at which, and the person by whom it was acquired.

III.—The Deputy Commissioner may at any time examine the applicant on oath or solemn affirmation, or require him to furnish a written statement verified as in Rule I, regarding such particulars as may be necessary for the disposal of the application, and may at any time himself make, or instruct a Revenue-officer subordinate to him to make, such enquiry into the truth of the matters, stated by

(Chapter IV—Of Occupancy Tenants—
Rules under Section 45.)

the applicant, or into other relevant matters as he may think fit.

IV.—If on receipt of the application or at any subsequent stage of the proceedings, it appears that any document purporting to effect transfer of the property in the *sir* land which is the subject of the application has already been executed, or that proprietary possession of the *sir* land has actually been transferred, the Deputy Commissioner shall reject the application.

V.—An application rejected under Rule IV may be renewed upon proof being given that the document has been legally cancelled and rendered null and void or that possession has been restored to the transferor.

B.—SANCTION BY THE DEPUTY COMMISSIONER.

VI.—When it is alleged in the application, or at any time during the proceedings, and the Deputy Commissioner is satisfied that the *sir* land in respect of which sanction is sought was self-acquired by the intending transferor, or was acquired by his family otherwise than by inheritance during the twenty years immediately preceding the date of the application, he shall, subject to the provisions of Rule IV, sanction the transfer.

VII.—When sanction is asked for on the ground that the intending transferor is not wholly or mainly an agriculturist, and the Deputy Commissioner, from his personal knowledge, or after such enquiry as he may think fit is satisfied beyond all doubt that the applicant is not wholly or mainly an agriculturist* he shall sanction the transfer.

C.—SANCTION BY THE FINANCIAL COMMISSIONER.

VIII.—When the application is not disposed of under Rule IV or VI or VII, it must be referred for the orders of the Financial Commissioner. But before so referring it, the Deputy Commissioner shall ascertain the circumstances of the applicant so far as may be necessary to enable the Financial Commissioner to pass orders upon the application, with reference to the hereditary occupation of the transferor, the sources from which he derives his income, his standing and position and means of subsistence, and the manner in which they will be affected by the intended transfer, his capacity to manage as occupancy-tenant the *sir* land which is to be transferred, the income which he

* Deputy Commissioners should carefully study paragraphs 11 to 15 of Resolution No. 1757, dated the 26th April 1899.

(Chapter IV—Of Occupancy Tenants—
Rules under Section 45.)

will derive from it if the occupancy right is reserved to him, and any other special ground upon which sanction is sought.

IX.—Whenever the Deputy Commissioner of the District requires it, the following information shall be furnished :—

- (a) Details, in the annexed Form A, of the Agricultural landed property of the applicant and of the income accruing from it (1) as it stands at the date of the application, and (2) as it will stand if the intended transfer is made, and of the manner in which the sanction sought will affect it.
- (b) The sources (if any) other than agricultural land, from which the applicant derives a substantial permanent income together with an approximate estimate of his annual income from each such source, and the amount of income-tax (if any) payable by the applicant for the year in which the application is made :

Provided that, if the applicant is notoriously a man of great wealth or large estate, and the property to be transferred is insignificant by comparison with that which is to be retained, or if for any sufficient reason the Deputy Commissioner is of opinion that the above-mentioned details will not be required by the Financial Commissioner, he may omit them or any portion of them, and furnish the information required by Rule VIII in such detail only as may appear to be sufficient for the disposal of the application.

NOTE. (i).—If the Deputy Commissioner considers it necessary to order the preparation of Form A, the Extra-Assistant Commissioner inquiring into the case will, with the aid of the jamabandi, the latest khasra (to be obtained from the tahsil) and the ryotwari abstract, prepare it himself or under his personal supervision, in all cases in which an exact valuation of the land, calculated as under the Land Acquisition Rules, is material to the decision. One-tenth of the valuation will generally be a fair estimate of the annual net profits of the land. Otherwise the course indicated in the eighth direction at the foot of Form A may be followed.

(ii) Generally speaking, the filling in of Form A will only be necessary where the sufficiency of the subsistence left to the applicant is essential to the transfer being sanctioned, and is a matter of doubt. All cases, therefore, in which the transfer would save part of an estate which would otherwise be totally lost, or in which the portion to be alienated is an insignificant part of the property, may safely be excluded from the operation of Rule IX. Similarly, where the property remaining is considerable, a minute valuation will not be required, and land and revenue will be a sufficient index of the income left. (Revenue Secretariat Circular letter No. 4327, dated the 26th July 1902.)

*(Chapter IV—Of Occupancy Tenants—
Rules under Section 45.)*

X.—When the information required by Rules VIII and IX has been collected, the Deputy Commissioner shall record a proceeding setting forth the matters referred to in Rule VIII, together with his opinion as to whether transfer should be sanctioned or not, and shall forward the whole record to the Commissioner, who will submit it to the Financial Commissioner with his own recommendation in the matter.

D.—PROCEDURE AFTER SANCTION.

XI.—When a transfer of *sir* land without reservation of occupancy right has been sanctioned under sub-section (2) of section 45, and a party to the transfer produces a duly executed document giving effect thereto, and applies for the endorsement of sanction referred to in sub-section (3) of the same section, the Deputy Commissioner shall first cause the document to be compared with the sanction; and if he is satisfied that the *sir* land which the document transfers without reservation of occupancy right is identical with *sir* land in respect of which sanction has been accorded by a competent authority, shall endorse upon the document the following certificate with his full signature and under his official seal:—

“I certify that the transfer without the reservation of right of occupancy of _____ acres of *sir* land situated in mauza* _____ which is effected by this document has been duly sanctioned under section 45 (2) of the Central Provinces Tenancy Act.”

* When the land is situated in two or more villages particulars of the area in each village will be entered.

FORM A. (RULE IX).—*Details of the Agricultural property of* _____
son of _____, *caste* _____, *resident of* _____, *Applicant.*

Property of which details are required.	Proprietary Rights.				Cultivating Rights.					
	Village or mahal.	Applicant's share in annas.	Cash assets including whole village or mahal.	Government revenue and cesses of whole village or mahal.	Land in which applicant has cultivating rights.		Area in acres.	Approximate value of applicant's share in acres.	Cultivating profits of applicant's share.	Total profits (Cols. 6 and 10).
I	2	3	4	5	6	7	8	9	10	11
A.—Property possessed by applicant at the date of the application.						Nature of cultivating right.				
Total						Sir Khudkasht Malik-makbuza Absolute-occupancy Occupancy Ordinary	Total			
B.—Portion of A which it is intended to transfer.						Sir land in respect of which sanction is sought. Land to be transferred other than sir				
Total						Total				
C.—Balance which will remain to applicant.						All rights				

*(Chapter IV—Of Occupancy Tenants—Rules
under Section 45.)*

DIRECTIONS FOR PREPARING FORM A.

(i).—When the estate comprises a number of villages too numerous for convenient entry in the form, the entries in columns 4 to 6 may be worked out in a separate statement, which must form part of the record; only the total number of (1) whole villages, (2) shares in villages, being shown in column 2, and total figures for each of these two headings in columns 4 to 6.

(ii).—Under side-heading B, columns 2 and 4 to 6 will be filled up as in direction (i). If sanction is sought in respect of a part only of the *sir* land which is to be transferred that part only should be entered under "Cultivating rights" opposite side-heading B; since the cultivating rights in the portion regarding which no sanction is asked for will *not* be transferred. Under side-heading C, only one row of total figures, being the difference between A and B, need be shown.

(iii).—Column 3. When the entry in column (2) refers to a *mahal* the share in column 3 will refer to applicant's share in the *mahal* and not in the village.

When the applicant is the owner of all or part of *patti* or imperfectly divided share, and the assets and revenue of the *patti* have been separately apportioned, and can be ascertained without delay, the *patti* may be treated as if it were a *mahal* in columns 2 to 5. Otherwise, it must be treated as the share of the *mahal* which it represents.

(iv).—Column 4. The *siwai* income should be ascertained from the assessment statement of the village and the other assets from the *jama-band* abstract of the last year.

(v).—Column 5. When a *patti* has been treated as a *mahal* under direction (iii), the entry of land revenue and cesses must be taken from the Settlement record or statement granted to the sharer at the time of announcement, or must be certified to by the *lambardar*.

(vi).—Column 6. The proprietary profits will be calculated on the share possessed by the applicant, and will represent his share of the cash assets *minus* revenue and cesses of the whole village, *mahal* or *patti* as the case may be. If the latter exceed the former, a minus entry will be made and the deficit will be made in reduction of his cultivating profits.

(vii).—Columns 8 to 10. Total figures only need be entered for each of the cultivating rights; but a statement showing the details from which they are derived (including the shares held by the applicant in the various holdings) must form part of the record.

(viii).—Column 10. The applicant will furnish a statement of the cultivating profits of his land which must be checked roughly by the ratio they bear to the area entered in column 9. It should not ordinarily be less than Rs. 5 or more than Rs. 10 per acre, unless the land is of uniformly bad or uniformly good quality. In the case of land held in *malik-makbuza* or tenancy right, the cultivating profits are to be shown after deduction of the revenue or rent payable by the applicant.

(ix).—Column 11. Will be filled up for the totals only of side-headings A, B and C.

Instructions with reference to leases.

The lines on which section 45 should be worked with reference to leases as distinguished from possessory mortgages and sales are indicated in the following orders.

2. Such leases covering the right to cultivate the *sir* are usually—

- (1) thekadari leases by large landholders, whose villages are too scattered or too numerous to be managed directly;
- (2) leases by small proprietors whose object is to clear off debts, or who are unable to manage the *sir* directly;

Rev. Sec. Cir
letter No.
1705, dated
23rd April
1900.

*(Chapter IV—Of Occupancy Tenants.—Rules
under Section 45.)*

(3) leases given by Collectors acting under sections 320 and 325 of the Civil Procedure Code.

3. In leases to thekadars, covering the right to occupy the *sir* land, the Financial Commissioner's sanction under section 45 of the Tenancy Act will usually be required. If the conditions laid down in the Act and outlined below are fulfilled, the required sanction will be given without hesitation. It is not intended to interfere with the thekadari system as it exists already. The extension, however, of the system, except perhaps in the case of waste lands, is not as a rule desirable. No hard-and-fast distinction can be drawn between protected thekadars and other thekadars.

4. Leases of the second kind referred to in paragraph 1 executed for the purpose of clearing off debt, will be approved, if some subsistence is guaranteed to the lessor during the continuance of the lease *and if the debt is extinguished at its expiration*. Any lease of the nature of an usufructuary mortgage by which a debt alleged to be premium has to be repaid before, at the end of a term of years, the mortgagor can claim possession, should be disallowed.

5. If a widow or minor, to ensure a small fixed income leases a village, with cultivating rights in *sir*, being unable to manage it directly, the lease may be approved.

6. Lastly in Collectors' cases, when a property cannot be saved by a lease which does not confer cultivating rights in the *sir*, but can be saved by a lease which confers cultivating rights in the whole or a part of the *sir*, and the owner can support himself during the term of the lease by cultivating the rest of the *sir* or by other means the opportunity should be given to the owner to apply under section 45 of the Tenancy Act for permission to lease the *sir* with the cultivating rights, and such permission will usually be given.

7. In applying for sanction to leases of the kinds mentioned in paragraph 1, the form which has been prescribed by rule IX of the rules issued under Notification No. 1751, dated the 26th April 1899, for use in cases under section 45, need not be filled up. The details necessary to enable the Financial Commissioner to judge the merits of the case must be given, and in the case of leases to clear off debts, sufficient details must be stated to show that the debt will really be cleared off. When the lessor has other property on which he proposes to live during the currency of the lease, it is of importance to state whether that property is or is not encumbered.

(Chapter IV—Of Occupancy Tenants—
Section 46.)

46. (1) When an occupancy tenant dies his right in his holding shall devolve as if it were land : Devolution of occupancy right.

Provided that except in the districts of Chanda, Nimar and Sambalpur, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding or unless, failing any such co-sharer, he held land, or was permanently resident, in the village in or from which the holding is cultivated, and is in the male line of descent from an ancestor who occupied the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an occupancy tenant in his holding, nor shall such right be sold in execution of any decree or order. Exemption of occupancy rights from Court sales.

(3) No occupancy tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right in his holding or in any portion thereof, and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections: Prohibition of transfer of occupancy rights.

Provided that an occupancy tenant may transfer his right of occupancy to any person who, if he survived the tenant, would inherit the right to occupancy, or to any person in favour of whom as a co-sharer the right of occupancy originally arose, or who has become by succession a co-sharer therein:

Provided, also, that nothing in this section shall affect the right of the Government to sell the right of an occupancy tenant in his holding for the recovery of an advance made to him under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding Prohibition of contracts for future sub-leases.

(Chapter IV—Of Occupancy Tenants—
Sections 47 and 48.)

or such portion thereof, and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition
of registra-
tion of docu-
ments trans-
ferring occu-
pancy right.

(5) Notwithstanding anything contained in the Indian Registration Act, 1877, no officer empowered to register documents shall admit to registration any document which purports to transfer the right of an occupancy tenant in this holding or in any portion thereof unless the document recites that the transferee is a person who if he survived the tenant, would inherit the right of occupancy or is a person in favour of whom as a co-sharer the right of occupancy originally arose or who became by succession a co-sharer therein.

III of
1877

Right of cer-
tain persons
to apply to
set aside
transfers.

47. (1) If an occupancy tenant transfers any portion of his right in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer, made within two years from the date on which in pursuance of the transfer the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the Local Government, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

NOTE.—For rules under this section see section 36.

Procedure on
application.

48. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and

(Chapter IV—Of Occupancy Tenants—
Sections 49 and 50.)

shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desire to be placed in possession is first entitled to be so placed:

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any, has passed, for which the sub-lease was made and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

49. The rent of the holding of every occupancy tenant shall be fixed by the Settlement Officer at each settlement of the area in which the holding is comprised.

Rent of occupancy tenant to be fixed at settlement.

50. (1) In the districts of Chanda, Nimar and Sambalpur, the rent fixed under section 49 shall not be altered during the currency of any settlement except under section 13, section 14, section 15 or section 17.

Fixation of rents during currency of settlement in Chanda, Nimar and Sambalpur.

(2) The rent payable in respect of his holding by a tenant in any of those districts at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which that holding is comprised.

(3) Subject to the provisions of sections 13, 14, 15 and 17, the rent payable by any such tenant in respect of holding acquired by him after the commencement of this Act shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by

*(Chapter IV—Of Occupancy Tenants—
Section 51.)*

agreement between him and his landlord at the time he acquired that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say :—

- (a) in the districts of Chanda and Nimar, the rate which the Local Government has prescribed for occupancy tenants and caused to be entered in the record-of-rights at the current settlement ;
- (b) in the districts of Sambalpur, the average rate at which at the current settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

Enhancement
during settle-
ment in other
districts.

51. The rate of rent payable in money by an occupancy tenant in any other district may, during the currency of a settlement on the application of the landlord to a Revenue-officer, be enhanced subject to any rules made under this Act for the local area in which the holding is situate and for the time being in force :

Provided that—

- (a) an application under this section shall not be entertained when, within the ten years immediately preceding the application, the rent of the holding has been fixed at any settlement or under any of the other provisions of this Act, except those of section 13, 14 or 15, or a suit or application to enhance it has been dismissed on the merits ; and
- (b) no order shall be made on any such application which is inconsistent with any contract made after the current settlement and still in force, such contract being consistent with this Act.

(Chapter IV—Of Occupancy Tenants—
Instructions under Section 51.)

Instructions for the guidance of Officers enhancing occupancy rents.

(i) PRINCIPLES.

I.—The *only* grounds on which the existing rent of an occupancy-tenant's holding may be enhanced under section 51 of the Tenancy Act, subject to provisos (a) and (b) of that section, are as follows:—

- (A) That the rent of the holding has not been raised since settlement; that the rent fixed at settlement was lower than the full rent assessable on the holdings as it then stood, at the rate used by the Settlement Officer for the valuation of ryoti land in the village in which the holding is situated; that it has been left on record by the Settlement Officer that the abatement was allowed, wholly or partly in order to avoid too large an enhancement; and, if other causes also for the abatement were stated, that none of them is still in operation.

Explanation.—The full rent assessable means the “net deduced rent” shown against the holding in the village ryotwari abstract.

- (B) That, since the rent was last fixed, there has been a permanent rise in the average value of the produce ordinarily grown on the holding, the extent of which has been declared by the Local Government for the tahsil, or other local area, in which the holding is situated.
- (C) That, since the rent was last fixed, there has been an increase in the total area in cultivation included within the holding, which increase has been maintained during the three years last preceding.

II.—In case (A), subject to the limitations imposed by Rules IV and VI, the rent may be enhanced so as not to exceed the net deduced rent of settlement, unless the land included within the holding has been changed since settlement by purchase, exchange, or surrender. In this case the holding as it now stands must be re-valued as in Rule X, and the rent may then be enhanced so as not to exceed the net deduced rent thus arrived at.

III.—In case (B), subject to the limitations imposed by Rules IV and VI, the existing rent, or the existing rent enhanced under Rule II, as the case may be, may be enhanced by such percentage as may seem fair under the circumstances not being more than two-thirds of the percentage by which prices have been declared to have risen,

(Chapter IV—Of Occupancy Tenants—
Instructions under Section 51.)

so as to allow for the risk of subsequent fluctuations in prices, for the legitimate growth of the tenant's expenses, and for his share in the increased value of the produce of the land:

Provided that if the Local Government, when declaring the extent to which prices have risen, has also declared the percentage of enhancement in rent which is thereby justified, the rent may not be enhanced by more than such percentage;

Provided also, that the rent shall not be enhanced under this rule so as to exceed the net deduced rent of settlement by a percentage greater than two-thirds of the percentage by which prices have been declared to have risen since settlement, or than the percentage of enhancement which that rise has been declared to justify, as the case may be.

IV.—Any or all of the grounds mentioned in Rule I may be considered in determining the amount by which a rent may be enhanced; but the aggregate enhancement imposed shall under no circumstances exceed 25 per cent on the existing rent of the holding.

V.—Case (C) need not be considered if the enhancement permissible under grounds (A) and (B) reaches or exceeds the 25 per cent limit allowed by Rule IV. Nor need it be considered if the increase in cultivated area is trifling. But if the enhancement does not reach or exceed the limit aforesaid, and the increase in cultivated area is substantial, the Revenue-officer shall proceed to determine 'the revised net deduced rent' for the holding as it stands in the manner described in Rule X, and, subject to the limitations imposed by Rules IV and VI, may substitute for the existing rent enhanced under the preceding rules, the revised net deduced rent thus obtained, enhanced on account of the declared rise in prices since settlement in accordance with the provisions of Rule III, *the second proviso excepted*.

VI.—Notwithstanding anything contained in the foregoing rules, no Revenue-officer shall enhance the rent of any occupancy holding so as to raise it above what is a fair and reasonable rent for the holding in view of all the circumstances. A Revenue-officer shall in all cases record his reasons in writing for any abatement made by him in the amount of enhancement authorized by the preceding rules.

(ii) PROCEDURE.

VII.—To every application by a landlord for the enhancement of the rent of an occupancy-tenant shall be appended a certified copy of the khasra entries relating to the holding for the three preceding years, and of the

*Chapter IV.—Of Occupancy Tenants—
Instructions under Section 51.)*

jamabandi entry for the year last preceding. On receipt of the application, the Revenue-officer will obtain an extract from the ryotwari abstract showing the state of the holding at the last settlement, and the manner in which the rent was then fixed. The information given in these papers, together with the percentage rise of prices notified for the tahsil or local area, will be entered in Part I of a statement in the form attached to these rules, and will indicate whether an enhancement is *prima facie* allowable under any or all of the grounds mentioned in Rule I. If no enhancement on any of these grounds is justified, the application will be at once dismissed. If an enhancement on one or more of these grounds appears to be justified, the Revenue-officer will cause notice to be served on the tenant to attend on a day fixed (of which the landlord also shall be notified) and show cause why his rent should not be enhanced.

VIII.—On the day fixed for the hearing, the Revenue-officer will, after hearing and examining the parties, decide upon any plea against enhancement which the tenant may urge and determine whether an enhancement is barred under either proviso to section 51 of the Tenancy Act.

IX.—If he is satisfied that enhancement is permissible under the law, he will proceed to determine the extent of such enhancement under grounds (A) and (B) of Rule I as is admissible under Rules II and III and to consider whether ground (C) need be examined.

ILLUSTRATIONS.

In the following cases the Local Government has declared a permissible enhancement of 10 per cent since settlement on account of rise in prices, and no further rise has since been declared. The cultivated area when the existing rent was fixed was 15 acres.—

	Rent as fixed at settlement.	Rent now payable.	Net deduced rent of settlement.	Net deduced rent of settlement raised on account of rise in prices.	Area by which cultivation has increased.
	Rs.	Rs.	Rs.	Rs.	Acres.
(i) ...	20	20	30	33	3'00
(ii) ...	20	20	20	22	5'00
(iii) ...	18	21	20	22	5 00
(iv) ...	30	30	20	22	0'50

In case (i) the rent may be at once enhanced from Rs. 20 to Rs. 25 on ground (A), and, under Rule IV, cannot be raised higher. Grounds (B) and (C) need not be considered.

(Chapter IV—Of Occupancy Tenants—
Instructions under Section 15.)

In case (ii) no enhancement can be made on ground (A). On ground (B) the admissible enhancement allowed is not more than Rs. 2, or 10 per cent. But, as cultivation has substantially increased, ground (C) must be taken into consideration, and a *revised net deduced rent* calculated.

In case (iii) the existing rent cannot be enhanced on ground (A), since it has been raised since settlement; nor on ground (B), since no rise in prices has been declared since it was fixed. But as cultivation has substantially increased, ground (C) must be taken into consideration, and a *revised net deduced rent* calculated.

In case (iv) the rent cannot be enhanced, since grounds (A) and (C) do not apply, and under the second proviso to Rule III, no enhancement on ground (B) is permissible.

X.—When it is necessary to consider ground (C) as a basis for enhancement, the Revenue-officer will enter in Part II of statement in the form attached to these rules, each khasra number comprised in the holding, classing its area after the method of soil-classification adopted at settlement, and distinguishing groves, *birs*, new fallow, old fallow and waste, from cultivation. If the correctness of the khasra entries in this respect is impugned by either party on grounds which appear to be *prima facie* reasonable, the Revenue-officer may make such revision of the classing as a local enquiry may show to be necessary. Such enquiry may be made by a Revenue Inspector; but not by an officer of inferior rank. From these details he will calculate the number of soil-units contained in the holding, by multiplying each area by the soil-factor used at settlement for the valuation of the class to which it belongs. The total number of soil-units will then be multiplied by anna unit-rate used for the ryoti lands of the mahal at the last settlement; the product in annas will be expressed in rupees and annas, and will constitute the revised gross deduced rental of the holding as it now stands, calculated at the settlement rate.

From this sum will be deducted :—

- (a) All deductions made by the Settlement Officer, under Article 212 of the Settlement Code and shown in the ryotwari abstract, for improvements.
- (b) Any further deductions necessary on account of improvements made by the tenant since the last settlement.
- (c) The rental value of one-third of the current fallow in each class, in the case of soils of poor descriptions to which this concession was commonly allowed by the Settlement Officer under Article 212 of the Settlement Code.

The balance remaining after these deductions (if any) have been made, will constitute the *revised net deduced rent* referred to in Rule V, and may be used as directed in that rule.

*(Chapter IV—Of Occupancy Tenants—
Instructions under Section 51.)*

XI.—Before finally deciding upon the enhanced rent, the Revenue-officer will announce his proposed rent to the parties, briefly explaining the manner in which it has been arrived at and will hear and consider any objections or arguments that they may put forward.

XII.—The Revenue-officer will then briefly record the pleas of the parties and his reasons and remarks in Part III of the form, and date and sign the proceedings.

FORM FOR THE ENHANCEMENT OF AN OCCUPANCY
TENANT'S RENT.

Village— Group— Tahsil—

Name of landlord (applicant)—
Name of tenant—
No. of holding in ryotwari abstract—
No. of holding in last jamabandi (for the year)—
Year in which the rent was last fixed ; and whether at settlement, or
how—

Part I.—Grounds for Enhancement.

[illegible]

		Rs.
(a)	Existing rent payable upon the holding	...
(b)	Do. enhanced under Rule II	...
(c)	Do. further enhanced under Rule III	...
(d)	Enhanced rent as finally fixed, in words and figures	...
(e)	Date from which it becomes payable	...
<i>Date of order</i>		<i>Signature of Revenue Officer.</i>

DIRECTIONS.

If (c) does not exceed (a) by so much as 25 per cent, and ground (C) has to be considered, (d) and (e) will be left blank and filled in below Part II.

1898.]

Central Provinces Tenancy.

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(Chapter IV—Of Occupancy Tenants—
Instructions under Section 51.)

Part II*.—Deduced Rental valuation of holding.

[To be used only when ground (c) has to be considered.]

Khasra number.	Class of soil.	Position and fallows.	Area in acres.	Soil-factors.	Soil-units.	Detail of exemptions and of deductions for improvements made by the tenant since settlement.	Soil-units to be deducted.
1	2	3	4	5	6	7	8
111	Morand I, Gohari.	Mamuli ...	4'30	32	138	Acres 1'20 raised by embankment from tagar (factor 24) to mamuli (factor 32) $1'20 \times 8 =$	10
	Do. ...	Do., N. F.	0'40	32	13		
	Do. ...	Do., O. F.	0'60	...	...	Exempt as old fallow.	
	Do. ...	Do, irrigated.	0'80	56	45	Acres 0'80 raised by new well from dry (factor 32) to irrigated (factor 56) $0'80 \times 24 =$	19
143	Do. ...	Mamuli ...	1'37	32	44		
	Do. ...	Grove ...	1'80	...	...	Exempt as grove.	
	Morand II.,	Bir ...	4'00	...	...	Exempt as bir.	
	Khardi ...	Mutafarikat.	6'40	8	51		
	Do. ...	Do., N. F.	11'60	8	93	Deduct one-third of total area (25'50) of class in holding $8'50 \times 8 =$	68
179	Do. ...	Mutafarikat.	7'50	8	60		

Total of soil-units	...	444	
Village unit-rate in annas	...	65	97
Gross deduced rent in annas	...	289	65

	Rs. a.		Rs. a.
Gross deduced rent in rupees and 18 annas.	1		3 15
Less deductions (column 8)	... 5 12	Add deductions for improvements made by Settlement Officer.	1'13
Net deduced rent	... 12 5		
Do. enhanced, Rule. V. 14 3		Total deductions	... 5 12
Enhanced rent as finally fixed, in words and figures	...		
Date from which it becomes payable	...		
Date of order		Signature of Revenue Officer.	

* This part has been filled up for an imaginary holding by way of illustration.

(Chapter IV.—Of Occupancy Tenants—
Section 52.)

DIRECTIONS.

Columns 1 to 4.—Will be filled up from the khasra. If it is necessary to revise or supplement the khasra soil-classing, the method of classification as described in the Settlement Report should be followed.

Column 3.—Enter old fallow as O. F., and new fallow as N. F.

Column 5.—The soil-factors will be found in Statement B attached to the Rent-rate Report of the group. This column and column 6 will be blank for waste, old fallow, groves, and *birs* (Settlement Code, paragraph 212).

Column 6.—Is column 4 multiplied by column 5.

Columns 7 and 8.—The deduction for an improvement will be the number of soil-units added by the improvement.

[*Example.*—An acre of morand I mamuli dry (factor 32) represents 32 soil-units. If the tenant, by constructing a well, has made it irrigable, it will be classed as morand I irrigated (factor 56), and will represent 56 soil-units. The soil-units added by the improvement are the difference between 32 and 56 or 24; and these are to be deducted for each acre thus improved under section 79, entered in column 8.]

The deduction for new fallow (see Rule X) will be the number of soil-units represented by one-third of the *total* area of the class in question that is included in the *holding*.

Village unit-rate.—This rate as proposed by the Settlement Officer will be found in Statement C attached to the Rent-rate Report. Changes made in these proposals are detailed in the orders passed on the Report, which must always be referred to.

Note 1.—The *sanctioned* rate *not* the *proposed* rate, the *ryoti* rate *not* the *sir* rate must be taken.

Note 2.—The rate is in *decimals* of an anna.

Deductions made by Settlement Officer, on account of improvements, will be found in the body of the ryotwari abstract, or in the "Remarks" column of that statement.

Part III.—Grounds for the decision arrived at.

DIRECTIONS.

Here any arguments and objections put forward by the parties should be briefly stated and discussed, and any special features in the case and anything necessary to explain how the enhancement has been arrived at briefly noted.

In particular, if enhancement has been allowed on ground A, the statement of the Settlement Officer should be referred to. And if the Revenue officer has granted an enhancement which is lower than that which is permissible under the rules, he should briefly record his reasons for doing so.

Grounds for
ejectment.

52. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy tenant shall not be ejected from his holding by his landlord as such except—

(a) as hereinafter provided for arrears of rent; or

(b) in execution of a decree of a Civil Court passed on the ground of his having

(Chapter V—Of Village-service Tenants—
Sections 53—56.)

diverted the land to non-agricultural purposes or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

53. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re-distribution, and exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant changing land in accordance with village custom.

54. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

Tenant changing land in other cases.

CHAPTER V.

OF VILLAGE-SERVICE TENANTS.

55. A tenant of holding who is recorded in the papers of the current settlement of the area in which the holding is comprised as holding his land rent-free or on favourable terms on condition of rendering village-service is a village-service tenant.

Definition of "village-service tenant."

56. (1) When a village-service tenant dies, resigns or is lawfully dismissed, his right in his village-service holding shall pass to his successor in office:

Devolution and transfer of village-service tenant's right.

Provided that the Local Government may, by general or special order, direct that, where on the resignation, dismissal or death of a village-watchman or patwari, his successor in office is not his heir, the village-service tenure shall cease, in which

(Chapter V—Of Village-service Tenants—
Sections 57 and 58.)

case the holding shall be retained in occupancy tenant-right by the late village-service tenant or shall devolve in occupancy tenant-right on his heir, as the case may be, at a rent which for the remainder of the term of the current settlement shall be that determined at such settlement as the rental value of the holding.

(2) A transaction by which a village-service tenant attempts to effect to transfer of his interest in his village-service holding by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year shall be void, and the village-service tenant shall be liable to be ejected for such attempt.

(3) The right of a village-service tenant shall not be sold in execution of a decree.

Objection of village-ser-
vice tenant to
provide sub-
stitute.
57. If a village-service tenant is unable to render the service which he is bound to render he shall provide a competent person to render it for him.

Grounds on
which a vil-
lage-service
tenant may
be ejected.
58. (1) A village-service tenant shall not be ejected from his holding except in execution of an order for ejectment passed by a Revenue-officer on one of the following grounds, namely :—

- (a) that the tenant has attempted to effect a transfer of his holding in contravention of section 56, sub-section (2) ;
- (b) that the tenant has ceased to render the service which he is bound to render or has failed to render it properly, or being unable to render it himself, has failed to provide a competent person to render it as required, section 57 ;
- (c) that the tenant has diverted his land to non-agricultural purposes or is chargeable with some other act or omission which by local custom or the provisions of the village wajib-ul-arz, renders him liable to be dismissed from office ;
- (d) that the tenant has resigned, or been dismissed from, his office.

(Chapter VI—Of Sub-tenants—
Sections 59—61.)

(2) When a village-service tenant is ejected from his holding under this section, or when he dies or resigns or is dismissed from his office, a Revenue-officer may, subject to any order issued under the proviso to section 56, sub-section (1), place his successor in office in possession of the holding; and when a village-service tenant is ejected from, or loses possession of, his holding otherwise than in accordance with this section, a Revenue-officer may re-instate him in the possession of his holding and eject any transferee or trespasser who may be in wrongful possession thereof.

CHAPTER VI.

OF SUB-TENANTS.

59. A tenant who is not an absolute-occupancy tenant or an occupancy-tenant, and who holds land from another tenant, or from a malik-makbuza, or from the holder of a survey-number, is a sub-tenant of that land. Definition of "sub-tenant."

60. A sub-tenant shall, subject to the provisions of sections 6, 15 and 16, hold on such terms as may be agreed upon between him and his landlord: Tenure according to agreement.

Provided that, notwithstanding any agreement to the contrary, a lease granted to a sub-tenant by an occupancy or an ordinary tenant shall not be valid for a period exceeding one year.

61. (1) In any local area in which the Local Government may by notification in the local official Gazette declare this section to be in force, a sub-tenant holding from a tenant who is proved to the satisfaction of a Revenue-officer or Settlement Officer to habitually sub-let the land held by the sub-tenant and to manage it solely with a view to the obtaining of rent may, subject to such rules as the Local Government may prescribe, be declared by such Revenue-officer or Settlement Officer to have all the rights conferred by this Act on an ordinary tenant, and shall thereupon be deemed to have such rights both as against the sub-letting tenant and as against the landlord from whom the latter holds: Power to declare sub-tenants in cases of ordinary tenants.

*(Chapter V—Of Village-service Tenants—
Sections 57 and 58.)*

case the holding shall be retained in occupancy tenant-right by the late village-service tenant or shall devolve in occupancy tenant-right on his heir, as the case may be, at a rent which for the remainder of the term of the current settlement shall be that determined at such settlement as the rental value of the holding.

(2) A transaction by which a village-service tenant attempts to effect to transfer of his interest in his village-service holding by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year shall be void, and the village-service tenant shall be liable to be ejected for such attempt.

(3) The right of a village-service tenant shall not be sold in execution of a decree.

Objection of village-service tenant to provide substitute.

57. If a village-service tenant is unable to render the service which he is bound to render he shall provide a competent person to render it for him.

Grounds on which a village-service tenant may be ejected.

58. (1) A village-service tenant shall not be ejected from his holding except in execution of an order for ejectment passed by a Revenue-officer on one of the following grounds, namely:—

- (a) that the tenant has attempted to effect a transfer of his holding in contravention of section 56, sub-section (2);
- (b) that the tenant has ceased to render the service which he is bound to render or has failed to render it properly, or being unable to render it himself, has failed to provide a competent person to render it as required, section 57;
- (c) that the tenant has diverted his land to non-agricultural purposes or is chargeable with some other act or omission which by local custom or the provisions of the village wajib-ul-arz, renders him liable to be dismissed from office;
- (d) that the tenant has resigned, or been dismissed from, his office.

(Chapter VI—Of Sub-tenants—
Sections 59—61.)

(2) When a village-service tenant is ejected from his holding under this section, or when he dies or resigns or is dismissed from his office, a Revenue-officer may, subject to any order issued under the proviso to section 56, sub-section (1), place his successor in office in possession of the holding; and when a village-service tenant is ejected from, or loses possession of, his holding otherwise than in accordance with this section, a Revenue-officer may re-instate him in the possession of his holding and eject any transferee or trespasser who may be in wrongful possession thereof.

CHAPTER VI.

OF SUB-TENANTS.

59. A tenant who is not an absolute-occupancy tenant or an occupancy-tenant, and who holds land from another tenant, or from a malik-makbuza, or from the holder of a survey-number, is a sub-tenant of that land. Definition of "sub-tenant."

60. A sub-tenant shall, subject to the provisions of sections 6, 15 and 16, hold on such terms as may be agreed upon between him and his landlord: Tenure according to agreement.

Provided that, notwithstanding any agreement to the contrary, a lease granted to a sub-tenant by an occupancy or an ordinary tenant shall not be valid for a period exceeding one year.

61. (1) In any local area in which the Local Government may by notification in the local official Gazette declare this section to be in force, a sub-tenant holding from a tenant who is proved to the satisfaction of a Revenue-officer or Settlement Officer to habitually sub-let the land held by the sub-tenant and to manage it solely with a view to the obtaining of rent may, subject to such rules as the Local Government may prescribe, be declared by such Revenue-officer or Settlement Officer to have all the rights conferred by this Act on an ordinary tenant, and shall thereupon be deemed to have such rights both as against the sub-letting tenant and as against the landlord from whom the latter holds: Power to declare sub-tenants in cases to have rights of ordinary tenants.

(Chapter VI—Of Sub-tenants—Instructions
under Section 61.)

Provided that no such declaration shall be made within one year after the commencement of this Act or in the case of a sub-tenant holding under a lease registered before the commencement of this Act or until an opportunity has been given to the sub-letting tenants to show cause against it.

(2) When a sub-tenant has been declared under this section to have the rights of an ordinary tenant, so much of the rent payable by him as is equal to the rent payable to the proprietor by the tenant from whom he holds on account of the land sub-let to him shall be rendered by him to the proprietor direct, and the balance shall be rendered by him to the tenant from whom he holds.

(3) If a tenant regarding whose land a declaration under this section has been made dies without heirs or surrenders his holding, the sub-tenants shall be deemed to hold direct from the landlord at the total rent paid by him for the land at the time of such death or surrender.

NOTE.—Section 61 has been declared in force in the following areas :—

Notification
No. 3838,
dated the 18th
September
1900.

1. The whole of the Hoshangabad District.
2. The Gadarwara Tahsil of the Narsinghpur District.
3. The Sausar Tahsil of the Chhindwara District.
4. The Burhanpur Tahsil of the Nimar District.
5. The Katol Tahsil of the Nagpur District.
6. The whole of the Bhandara District.
7. The Arvi Tahsil of the Wardha District.

Notification
No. 2899,
dated the
22nd May
1902.

1. This section does not take effect until it has been declared by the Local Government to be in force in a particular local area. But when this declaration has been made a Revenue-officer or Settlement Officer may if any tenant within that area is proved to his satisfaction "to habitually sub-let the land" held by any one or more of his sub-tenants, and "to manage it solely with a view to the obtaining of rent," declare the sub-tenant or sub-tenants in question to have all rights conferred by the law upon ordinary tenants.

Letter
No. 1745,
dated the 26th
April 1899. to
all Commis-
sioners, Com-
missioner of
Settlements
and Agricul-
ture, all De-
puty Commis-
sioners and
Settlement
Officers.

2. The section was fully discussed at the meeting of the Legislative Council at which the Act was passed and an explanation of its objects and reasons will be found on pages 378 to 385 of the Report of the proceedings published in Part VI of the *Gazette of India* for the 22nd October 1898.

3. The primary and most important object of the section is to prevent a proprietor from depriving his tenants, the real cultivators of the land, of the protection which the law affords to ordinary tenants, by interposing between himself and them a tenant or middleman, often one of his own relations, under whom they are to hold, and thus robbing them of the status of ordinary tenants which they are intended to enjoy, and degrading them to that of sub-tenants. The Settlement Officer of Hoshangabad reported some years ago that his practice was common in the Harda Tahsil of that district where large areas were already thus recorded in the name of

(Chapter VI—Of Sub-tenants—Instructions
under Section 61.)

some relation or other dependent as nominal tenant, and that the practice was much on the increase. And the Commissioner of Settlements stated that there were large areas, chiefly in the most fertile portions of the Province, which were held on such tenures, the inquiry into which occupied a considerable portion of the Settlement Officer's time, and that the example had already had a most pernicious influence upon the country. The expedient was so obvious, so simple and so effectual, that it was impossible that its employment should not spread rapidly, especially in those parts where land is held mainly as a commercial investment, with the profits of which the protection afforded by the law to all classes of cultivators except sub-tenants is seriously interfered. The law as now amended will enable Government to confer upon the sub-tenants in question all the rights enjoyed by ordinary tenants, and so to effectually defeat the device at which it is aimed. And wherever this advice is found to be used to any appreciable extent, the section should at once be declared to be in force. The local area may be small as may seem expedient. When the power that the Revenue-officer holds in his lands is once realised, attempts to thus defeat the law will be abandoned as useless. But whenever and wherever they are made that power should be used without hesitation.

4. At the same time, it is necessary, in applying the section, to distinguish carefully between the case in which the middleman has been introduced *before* and that in which he has been introduced *after* the real cultivator took up his holding. In the former case the cultivator is a sub-tenant, and can be protected only under the provisions of section 61. But neither under the law as it stood before the present Act was passed nor under the law as it now stands, can a cultivator who has once acquired the status of an ordinary tenant be deprived of that status in the manner indicated without his own co-operation. In the latter of the two cases, therefore, the cultivator (unless he has himself abandoned his status) is still an ordinary tenant; and it is important not to suggest the contrary by applying to his holding the provisions of section 61, and thus recognising him as a sub-tenant. But the law is not always correctly interpreted; it is often difficult to ascertain the true facts; the tenant may be intimidated into accepting a *patta* from the middleman; and for one that carries his case into Court, a hundred suffer uncomplainingly. Wherever, therefore, a tenant has been reduced to the status of sub-tenant in the manner already indicated, either by his own act or admission or by an authoritative decision recourse can rightly be had for his protection to the provisions of section 61.

5. There is also another subsidiary, though still important, advantage attending the new provisions. They will discourage the acquisition of tenancy rights by speculators, whether purchasers or mortgagees whose sole object in investing in land is to obtain the highest possible return for their money by rack-renting the men who cultivate it, and will thus, as Mr. Rivaz puts it, "help to prevent the exploitation of the cultivating by the commercial classes."

6. There are, however, two classes of cases to which it is not intended that the section should ordinarily be applied. The absolute-occupancy or occupancy tenant of the Central Provinces is sometimes in possession of an area considerably larger than he can cultivate himself. He is generally a *bond fide* cultivator, farming a considerable portion of his own holding. But he often finds it convenient to sub-let a portion of it to others. It is of course possible to conceive cases where he rack-rents his sub-tenants so mercilessly that it is necessary to interfere for their protection. But such cases will be exceedingly rare. And as a rule it is most undesirable to create tenant-rights in the portion of a holding which may be sub-let under the circumstances just described. With the progress of generations the number of the protected tenants who have to find their support from their holding will increase, and it is important that they should be able to resume and bring under their own cultivation, the land which was sub-let only because it was for the time being in excess of their cultivating capacity.

7. The second class of cases to which it is not intended that the section should ordinarily be applied is the class upon the existence of which Mr. Chitnavis laid such great stress when opposing the section

*(Chapter VI—Of Sub-tenants—Instructions
under Section 61.)*

Provided that no such declaration shall be made within one year after the commencement of this Act or in the case of a sub-tenant holding under a lease registered before the commencement of this Act or until an opportunity has been given to the sub-letting tenants to show cause against it.

(2) When a sub-tenant has been declared under this section to have the rights of an ordinary tenant, so much of the rent payable by him as is equal to the rent payable to the proprietor by the tenant from whom he holds on account of the land sub-let to him shall be rendered by him to the proprietor direct, and the balance shall be rendered by him to the tenant from whom he holds.

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5. There is also another subsidiary, though still important, advantage attending the new provisions. They will discourage the acquisition of tenancy rights by speculators, whether purchasers or mortgagees whose sole object in investing in land is to obtain the highest possible return for their money by rack-renting the men who cultivate it, and will thus, as Mr. Rivaz puts it, "help to prevent the exploitation of the cultivating by the commercial classes."

6. There are, however, two classes of cases to which it is not intended that the section should ordinarily be applied. The absolute-occupancy or occupancy tenant of the Central Provinces is sometimes in possession of an area considerably larger than he can cultivate himself. He is generally a *bond fide* cultivator, farming a considerable portion of his own holding. But he often finds it convenient to sub-let a portion of it to others. It is of course possible to conceive cases where he rack-rents his sub-tenants so mercilessly that it is necessary to interfere for their protection. But such cases will be exceedingly rare. And as a rule it is most undesirable to create tenant-rights in the portion of a holding which may be sub-let under the circumstances just described. With the progress of generations the number of the protected tenants who have to find their support from their holding will increase, and it is important that they should be able to resume and bring under their own cultivation, the land which was sub-let only because it was for the time being in excess of their cultivating capacity.

7. The second class of cases to which it is not intended that the section should ordinarily be applied is the class upon the existence of which Mr. Chitnavis laid such great stress when opposing the section

*(Chapter VI—Of Sub-tenants—Instructions
under Section 61.)*

in Council. In considering the application of the new provisions to non-cultivating land-holders who have invested their money in the purchase of occupancy holdings, a distinction may not improperly be drawn between those who have made the investment under the old law, on the faith of the freedom which is left them in dealing with their sub-tenants, and those who may in future make similar investments with the full knowledge that that freedom may now be restrained at any moment. It must be understood that the section covers both classes; but it would require a stronger case to justify interference with the former than with the latter, and investors who purchased before the passing of the present Act should be brought under the section, only when their treatment of their sub-tenants is such that it is necessary to interfere for the protection of the latter.

8. It must indeed be remembered in all cases that the rack-renting or other ill-treatment of his sub-tenants by a *bond fide* tenant who sub-lets his holding must be such as to amount to oppression before it can be held to justify interference. In the cases discussed at the end of paragraph 5 of this letter the tenants who have been reduced to the position of sub-tenants by the intrusion of a new and often a nominal tenant between themselves and the proprietor were until that intrusion, ordinary tenants, and are entitled to be maintained in their full rights as such. In the cases discussed in paragraph 4 and paragraph 6 of this letter, it is contrary to the public interest that the substantive cultivator of the soil should be deprived wholesale of protection, in the one case by a device which is virtually a fraud upon the Act, and in the other in favour of a mere rent-receiver who fills the place that the cultivator was meant to occupy. But when a cultivator accepts a lease of land from a *bond fide* tenant, he deliberately accepts the position of a sub-tenant. He must therefore expect to pay at very substantially higher rates than those paid by ordinary tenants; and it is not right to intervene between him and the tenant from whom he holds, merely because the rent which he pays is higher than what would probably be fixed by a Revenue-officer as a fair rent for an ordinary holding. As remarked by Mr. Fuller in Council "the object of Government is that rents should be fair in themselves not that they should be equal amongst themselves; and very considerable differences between the rents paid by different tenants in a village are not only compatible with the system, but a recognised consequence of it." The inferior status of the sub-tenant and the fact that the tenant has himself to pay rent should be allowed full weight; and interference with the latter will not be justified unless his treatment of the former amounts to an abuse.

9. The annexed form draws attention to the numerous points for consideration, and in order that the Chief Commissioner may have information of the working of the section, a copy of the form, at the end of which a copy of the final order should be added, must be submitted through the Commissioner of the Division to the Secretariat in all cases in which a sub-tenant is declared to be an ordinary tenant under this section—

*Form of enquiry held under Section 61 (1) of the Central Provinces
Tenancy Act, XI of 1898.*

1. Name, father's name, caste and place of residence of tenant.
2. Village in which land of tenant is situated.
3. Khasra numbers, with area of each comprised in the effected holding of tenant.
4. Right in which said holding is held.
5. Has the tenant got other land?
6. When did the tenant acquire the holding? Before or after 21st October 1898?
7. When the tenant acquired the holding did the former tenant become the sub-tenant?
8. (When part only of the tenant's land is sub-let.) Is there reason to suppose that the tenant sub-lets solely because he is unable himself to cultivate all his land?
9. Name, father's name, caste and place of residence of present sub-tenant.

(Chapter VII—Of Ordinary Tenants—
Sections 62 & 63).

10. Khasra numbers, with area of each, held by the sub-tenant.
11. Period for which sub-tenant has held and whether under registered lease or otherwise.
12. If under registered lease date of lease, whether before or after commencement (21st October 1898) of Act XI of 1898.
13. History of land showing habitual sub-letting.
14. Grounds for supposing land to be managed solely with the view to the obtaining of rent.
15. Objections of tenant to a declaration under the section.

CHAPTER VII.

OF ORDINARY TENANTS.

62. (1) Every tenant who is not an absolute-occupancy tenant or an occupancy tenant or a village-service tenant or a sub-tenant, is an ordinary tenant.

Definition
of "Ordinary
tenants."

(2) In any local area in which the Local Government may, by notification in the local official Gazette, declare that the provisions of this sub-section are in force, where a person cultivates land not being *sir*-land under an agreement made with the proprietor of the land and purporting to be an agreement for the cultivation of the land by such person and such proprietor in partnership, such person is an ordinary tenant of the land so cultivated by him, and notwithstanding any contract to the contrary, the rent payable by him for the land shall be fixed by a Revenue-officer on application made by him or his landlord.

The following Notification, issued under section 53 (2) of the Central Provinces Tenancy Act, IX of 1883, amended by section 13 of Act XXII of 1889, continue in force, and extend the provisions of section 62 (2) of Act XI of 1898 to the area noted opposite each:—

No. 2731, dated the 29th April 1891,
and No. 735, dated the 8th February 1893.

} The Hoshangabad District.

No. 3281, dated the 29th July 1895.

} The Bhandara District.

63. (1) A Settlement Officer shall, unless the Local Government otherwise directs, fix the rents payable by the ordinary tenants of a mahal other than ordinary tenants whose holdings consist entirely of *sir*-land, and, on and from the date on which the land-revenue assessment takes effect, the landlord shall be entitled to recover only the rents so fixed.

Landlord's
right to recover
rents determined
at settlement as
payable by
ordinary tenants.

(Chapter VII—Of Ordinary Tenants—
Sections 64 & 65).

(2) The rents fixed under sub-section (1) shall be recorded in the proceedings of the Settlement Officer, and a copy of the record shall be granted free of expense to the landlord.

(3) When by reason of the receipt by the landlord of any consideration, whether in money or otherwise, a tenant is holding at a rent lower than that fixed by the Settlement Officer under sub-section (1), the Settlement Officer may, notwithstanding anything in this Act, declare him to be entitled to hold at such lower rent,—

- (a) if the term is fixed by contract, for the term so fixed or for any shorter period ;
 - (b) in other cases, for such term as the Settlement Officer, having regard to the circumstances, fixes as fair and equitable ;
- and the term for which the tenant is declared to be so entitled shall be entered in the record made under sub-section (2) :

Provided that in no case shall the tenant be entitled to hold at such lower rent for a period longer than that for which the settlement is being made, and, at the expiry of the settlement, he shall not be entitled to a continuance of the privilege.

Notice of
enhance-
ment to be
served
through
Revenue-
officer.

64. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of *sir*-land and whose rent is not fixed by an agreement in writing, and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant through a Revenue-officer a notice of the enhancement not less than six months or more than twelve months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect

Liability of
tenant to
ejectment in
default of his
agreeing to
enhance-
ment.

65. (1) If, within the period of one month from the service of a notice under the last foregoing section, the tenant on whom the notice has been served presents to the Revenue-officer issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following

(Chapter VII—Of Ordinary Tenants—Instructions
under Section 65).

(2) If the tenant does not, within the said period of one month, present to the Revenue-officer a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, apply to the Revenue-officer to eject the tenant.

Notification
No. 1753,
dated the 26th
April 1899.

Preliminary proceedings under Sections 64 and 65 (1).

I.—Every application by a malguzar for the issue of a notice of enhancement of rent to an ordinary tenant under section 64 of the Tenancy Act shall be made to the Tahsildar and shall contain the following details:—

- (1) Name of tenant whose rent is to be enhanced, father's name, caste and residence.
- (2) Khasra numbers, area, and present rent of the holding.
- (3) Enhanced rent which the malguzar proposes to demand.
- (4) A statement, *either that* the rent has not within the preceding seven years been fixed by a Settlement Officer or Revenue-officer or enhanced by consent after issue of notice under section 64 or otherwise, and that within that period no order of ejectment under section 66 (4) has become void, *or that* the tenant is holding a favourable rent under a special contract, the term of which has expired.

Every such application shall be verified by the person marking it in a manner prescribed for the verification of plaints, and shall be accompanied by a duly certified extract from the jamabandi of the previous year regarding the tenant's holding.

II.—On receipt of such application, the Revenue-officer will first decide, after such enquiry as he may think necessary, whether the application should be rejected under the provisions of section 68. If it is not so rejected, and the notice can be served within the period prescribed by section 64, he will after checking the details in the application with the jamabandi extract, issue a notice in Form A to the tenant, calling upon him, if he accepts the enhancement, to appear in person within one month from the date on which the notice is served upon him, and present a statement in writing of his agreement to pay the enhanced rent demanded.

III.—If within one month from the date of the service of the notice the tenant appears and presents a statement in writing expressing his agreement to the enhancement, and the Revenue-officer is satisfied that the tenant has agreed to it of his own free will, the Revenue-officer will record an

(Chapter VII—Of Ordinary Tenants—Instructions under Section 65).

order setting forth the fact of the tenant's agreement, the amount of the enhanced rent, and his liability to pay that rent from the commencement of the next agricultural year.

IV.—If the tenant does not appear and express his agreement as provided in the last preceding rule, or if the Revenue-officer is not satisfied that the tenant's agreement is a voluntary one, the proceedings will be filed.

Subsequent proceedings under Section 65 (2).

V.—Every application made by a landlord for the ejectment of a tenant under section 65 (2) of the Tenancy Act shall contain a reference to the preliminary proceedings taken under sections 64 and 65 (1) of that Act, and the landlord shall be bound to furnish any other particulars which the Revenue-officer, subject to any instructions issued by the Local Government, may require.

VI.—On receipt of such application, the Revenue-officer will obtain the preliminary proceedings, and after satisfying himself that the enhancement is not barred by section 68 or by any other provision of the law, and that the application is within the period prescribed by section 65 (2), will issue a notice in Form B, requiring the tenant to appear before him in person and show cause why, in default of his agreement to pay such rent as may be deemed fair by the Revenue-officer, he should not be ejected from his holding.

VII.—If the Revenue-officer has to determine a fair rent for the holding under section 66 (2), he shall enforce the attendance of the tenant (or if the tenant is a female who is exempted by custom from appearance in public, the attendance of her authorized agent), and shall determine the fair rent in his presence, and call upon him to personally accept or refuse the rent so determined.

General.

VIII. — Whenever, in response to a notice under section 64, or in proceedings under section 66, a person purporting to be the tenant appears and agrees, whether in writing or orally, to any rent, the Revenue-officer shall, before recording the fact of the agreement, satisfy himself as to the identity of such person with the tenant whose rent is being enhanced and shall record the fact that he has done so.

FORM A.—Notice of enhancement under Section 64 of the Tenancy Act. (Rule II.)

To _____, son of _____, caste _____
resident of _____.

Whereas _____, son of _____, caste _____, malguzar of _____ in _____

tahsil, has applied for the issue of a notice calling on you to agree to an enhancement of rent in regard to the land noted in the Schedule below, you are hereby informed that if you agree to pay in future the

(Chapter VII—Of Ordinary Tenants—Section 66.)

enhanced rent demanded as entered in the last column of the same Schedule, you should appear before my Court within one month from the date on which you receive this notice, and signify your agreement in writing.

Schedule.

Village.	Name of tenant.	Khasra numbers of field in holding.	Area.	Present rent.	Enhanced rent demanded by landlord.
			Acres.	Rs.	Rs.

FORM B.—Notice to tenant of application by landlord for ejectment under Section 65 (2), (Rule VI).

To _____, son of _____, caste _____, resident of _____.

Whereas at the instance of _____, son of _____, caste _____, malguzar of _____, in the _____, tahsil, you were served with notice on the _____ day of _____ last, calling upon you to agree to an enhancement of rent in regard to the land noted in the Schedule below, and whereas you did not signify in writing your consent to pay the enhanced rent demanded by the malguzar, you are hereby informed that the malguzar has filed an application before me for your ejectment from the said land.

You should therefore attend in person at my Court on the _____ day of _____ at _____ there to show cause why you should not agree to an enhancement of your rent, or be ejected.

No rent will be imposed with your consent unless it has been decided by me to be fair and equitable. But if you fail to appear, a fair rent will be determined *ex parte*, and your refusal to accept it will result in your ejectment.

Schedule.

Village.	Name of tenant.	Khasra numbers of fields.	Area.	Present rent.	Enhanced rent demanded by landlord.
			Acres.	Rs.	Rs.

66. (1) If, when an application has been made under sub-section (2) of the last foregoing section the tenant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2). Procedure in ejectment suit.

(Chapter VII—Of Ordinary Tenants—Instructions under Section 66.)

(2) If the tenant fails to appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Revenue-officer shall determine what rent is fair and equitable for the holding: Provided that, save where in the Revenue-officer's opinion the existing rent is merely nominal, the rent so determined shall not exceed the existing rent by more than thirty-three per cent.

(3) If the tenant agrees to pay the rent so determined, he shall be entitled to remain in occupation of the holding at that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

(4) If the tenant does not agree to pay the rent determined under sub-section (2), the Revenue-officer may make an order for his ejectment, subject to the provisions of sections 83 and 89 and subject to the deposit by the landlord, within a month from the date of the order of the amount of compensation (if any) determined as due to the tenant under section 32. If such amount is not so deposited, the order for ejectment shall become void.

Instructions for the guidance of officers fixing fair rent under section 66.

[These instructions also apply to the fixing of fair rent under section 78.]

(i) PRINCIPLES.

I.—The net deduced rent of a holding, obtained by multiplying the number of *soil-units* which it contains at the time of the application by the *anna unit-rate* sanctioned at the last settlement for the ryoti lands of the village in which it is situate, subject to the exemptions and deductions authorized by paragraph 212 of the Settlement Code, is *prima facie* a fair rent for the holding.

II.—The deduced rent obtained in this way may be less than a fair rent:—

(A).—When it has been left on record by the Settlement Officer that the village unit-rate adopted was fixed lower than the circumstances warranted, simply in order to avoid too large an enhancement.

(B).—When, since the village was settled or the rent of the holding was last otherwise fixed, there

(Chapter VII—Of Ordinary Tenants—Instructions under Section 66.)

has been a permanent rise in the average value of the produce ordinarily grown on the holding, the extent of which has been declared by the Local Government for the tahsil or other local area in which the holding is situated.

(C).—When, since the village was settled or the rent of the holding was last otherwise fixed, the value of land has increased owing to the development of the village, and the increase is shown by a rise in the average rent per acre paid by ordinary tenants in the village for the land occupied by them.

III.—In case (A) the rent obtained as in Rule I may be enhanced by such percentage, not exceeding 15 as may seem fair under the circumstances.

IV.—In case (B) the rent obtained as in Rule I, after enhancement (if any) under Rule III, may be enhanced by such percentage as may seem fair under the circumstances, not being more than two-thirds of the percentage by which prices have been declared to have risen, so as to allow for the risk of subsequent fluctuations in prices, and for the legitimate growth of the tenant's expenses: Provided that if the Local Government, when declaring the extent to which prices have risen, has also declared the percentage of enhancement in rent which is thereby justified, the rent as aforesaid shall not be enhanced by more than such percentage.

V.—In case (C) the rent obtained as in Rule I, after enhancement (if any) under Rule III, may be enhanced by such percentage as may seem fair under the circumstances, but not exceeding the percentage by which the average rent per acre paid by ordinary tenants in the village upon the land occupied by them has risen since the village was settled or the rent of the holding was last otherwise fixed.

VI.—The rent obtained as in Rule I, whether enhanced or not under Rule III, may be further enhanced under *either* Rule IV or Rule V; but it may not be enhanced under both of them.

VII.—The rent obtained as in the preceding rules must next be compared with the existing rent of the holding at the time that the application is made. If the former rent exceeds the latter by more than 33 per cent, it must be reduced so as to equal the existing rent increased by 33 per cent: Provided that when, in the Revenue-officer's opinion, the existing rent is merely nominal, no such reduction shall be made. The rent thus obtained will be *the limiting rent for the holding*.

(Chapter VII—Of Ordinary Tenants—Instructions under Section 66.)

The procedure will then be as follows:—

- (a) When a fair rent is being fixed under section 66, the Revenue officer shall fix as fair, subject to the provisions of Rule VIII, a rent not exceeding the limiting rent: Provided that if the existing rent was determined by the Settlement Officer at the current settlement otherwise than after the landlord's refusal to reduce it, or by a Revenue-officer under the Act, it shall not be reduced under this clause.
- (b) When a fair rent is being fixed under section 78, and existing rent is the same as or exceeds limiting rent, the Revenue-officer shall fix as fair, subject to the provisions of Rule VIII, a rent not exceeding the limiting rent.
- (c) When a fair rent is being fixed under section 78 and the existing rent is lower than the limiting rent, and the landlord has not formally applied in writing for an enhancement, the Revenue-officer shall fix as fair, subject to the provisions of Rule VIII, a rent not exceeding the existing rent.
- (d) When a fair rent is being fixed under section 78, and the existing rent is lower than the limiting rent, and the landlord has formally applied in writing for an enhancement, the Revenue-officer shall fix as fair, subject to the provisions of Rule VIII, a rent not exceeding the limiting rent.

VIII.—Notwithstanding anything contained in the foregoing rules, no Revenue-officer shall fix a rent for any holding in excess of what is a fair and reasonable rent in view of all the circumstances, nor shall he reduce existing rent unless it appears that it is in excess of what is a fair and reasonable rent in view of all the circumstances. A Revenue-officer shall in all cases record his reasons in writing for any abatement made by him in the amount of enhancement or reduction authorized by the preceding rules.

(ii) PROCEDURE.

XI.—In all proceedings arising under section 66 in which a Revenue-officer is called upon to determine a fair rent for the holding of an ordinary tenant, the Revenue-officer shall first satisfy himself that an alteration in the rent is not barred by the provisions of section 68.

(Chapter VII—Of Ordinary Tenants—
Instructions under Section 66.)

If, in the course of proceedings in any reference by a Court under section 78, it should appear that the existing rent has been fixed by a Revenue-officer under the Act, or by a Settlement Officer at the current settlement otherwise than after the landlord's refusal to reduce it (in neither of which cases is a reference permissible), he shall bring the fact to the notice of the Court, and stay proceedings until receipt of the Court's directions.

X.—To every application made by a landlord under section 65 (2) should be appended a copy of the khasra and jamabandi entries for the preceding year relating to the holding in respect of which application is made. In references under section 78 these details will be obtained by the Revenue-officer himself.

XI.—After hearing and examining the parties, and recording any plea that may be raised for or against the enhancement or reduction, as the case may be, of the existing rent, the Revenue-officer will proceed to ascertain the deduced rent of the holding as it stands, referred to in Rule I.

For this purpose he will enter in Part I of a statement in the form attached to these rules, each khasra number comprised in the holding, classing its area after the method of soil classification adopted at settlement, and distinguishing groves, *birs*, new fallow, old fallow and waste from cultivation. From these details he will calculate the total number of soil-units contained in the holding, by multiplying each area by the soil factors used at settlement for the valuation of the class to which it belongs. If the correctness of the khasra classing is impugned by either party on grounds which appear *prima facie* reasonable, the Revenue-officer may make such revision of the classing as a local enquiry may show to be necessary. Such enquiry may be made by a Revenue Inspector, but not by an officer of inferior rank.

XII.—The Revenue-officer will then multiply the total number of soil-units which the holding contains by the anna unit-rate used for the ryoti lands of the village at settlement, and calculate in rupees and annas the gross deduced rent obtained thereby. From this sum he will deduct—

- (a) The rental value added to the holding by any improvements made by the tenant.
- (b) The rental value of one-third of the current fallow in each class, in the case of soils of poor description to which the concession allowed under Article 212 (C) of the Settlement Code was commonly given by the Settlement Officer.

(Chapter VII—Of Ordinary Tenants—
Instructions under Section 66.)

The sum remaining after these deductions have been made is the *net deduced rent* of the holding referred to in Rule I.

XIII.—The Revenue-officer will next ascertain and enter in the appropriate columns of Part II of the same form the following particulars bearing upon the grounds of enhancement:—

In respect of ground (A)—

- (i) The unit-rate sanctioned at settlement for the ryoti lands of the village in which the holding is situated
- (ii) The standard unit-rate sanctioned at settlement for the group in which the village is situated.

In respect of ground (B)—

- (iii) The percentage by which prices have been declared by the Local Government to have risen in the tahsil or other local area.
- (iv) The percentage by which rents may be enhanced on the ground of rise of prices.

In respect of ground (C)—

- (v) The average rent per acre paid by the ordinary tenants of the village at the last settlement, or in the year in which the rent of the holding was last fixed, on the land then occupied by them.
- (vi) The average rent per acre paid by the ordinary tenants of the village at the time of the application on the land then occupied by them.
- (vii) The percentage (if any) by which the latter rate exceeds the former.

XIV.—The Revenue-officer will then decide by what percentage (if any) the net deduced rent may properly be enhanced under each of the grounds (A), (B) and (C), subject to the provisions of Rule VI, and enter the results in Part III of the Form. He will also fill up column 6. And he will then select and enter in column 7 the *limiting rent* referred to in Rule VII.

[NOTE.—Before deciding to enhance under ground (C), care must be taken that the rise in the average rate of ordinary rents is a real one, and that the areas held by that class at the last settlement (or at the date when the rent was last fixed) and at the date of proceedings, respectively, are not materially different. For example, if the ordinary tenants at settlement held an extensive area of poor soil, since abandoned, and the ordinary tenants at the date of the proceedings are holding valuable land which was the *malguzar's khudkasht* at the settlement, a rise in the rent-rate per acre would not be a safe guide.]

XV.—Before finally fixing or determining the fair rent for the holding, he will announce his proposed rent to the parties, briefly explaining the manner in which it has been

*(Chapter VII.—Of Ordinary Tenants—
Instructions under Section 66.)*

arrived at, and will hear and consider any objections or argument- that they may put forward.

XVI The Revenue-officer will then briefly record the pleas of the parties, and his reasons and remarks in Part IV of the form, and date and sign the proceedings

**FORM FOR THE FIXATION OR DETERMINATION OF AN
ORDINARY TENANT'S RENT.**

Village— . . . Group— . . . Tahsil . . .
Name of landlord—
Name of tenant—
No. of holding in last jamabandi—
Year in which the rent was last fixed, and whether at settlement, or how--

PART I.—Deduced rental valuation of holding.*

Khas- ra num- ber.	Class of soil.	Position and fallow.	Area in acres.	Soil- fac- tors.	Soil units.	Detail of deductions and exemptions.	Soil units to be deduct- ed.
1	2	3	4	5	6	7	8
111	Morand I Go- hari.	Mamuli	4'30	32	138	Acres 1'20 raised by embankment from tagar (factor 24) to mamuli (fac- tor 32) $1'20 \times 8 =$	10
	Do. ...	Do., N. F.	0'40	32	13		
	Do. ...	Do., O. F.	0'60	...	...	Exempt as old fallow.	
	Do. ...	Do., irri- ga ed.	0'80	56	45	Acres 0'80 raised by new well from dry (factor 32) to irri- gated (factor 56) $0'80 \times 24 =$	19
143	Do ...	Mamuli	1'37	32	44		
	Do. ...	Grove...	1'80	...	...	Exempt as grove.	
	Morand II.	Bir ...	4'00	...	...	Exempt as bir.	
	Khaldi	Mutafa- rikat.	6'40	8	51		
	Do. ...	Do., N. F.	11'60	8	93	Deduct one-third of total area (25'50) of class in holding $8'56 \times 8 =$	68
179	Do. ...	Mutafa- rikat.	7'50	8	60		

* The tables in this form have been filled up for an imaginary holding by way of illustration.

*(Chapter VIII—Of Ordinary Tenants—
Instructions under Section 66.)*

Total of soil-units	...	...	444	97
Village unit-rate in annas	...	...	65	65
Gross deduced rent in annas	...	...	289	63
			Rs. a.	Rs. a.
Gross deduced rent in rupees and annas	...	...	18 1	3 15
Less deductions (column 8)	...	...	3 15	
Net deduced rent	...	...	14 2	

DIRECTIONS.

Columns 7 to 4—Will be filled up from the khasra. If it is necessary to revise or supplement the khasra soil classing, the method of classification as described in the Settlement Report should be followed.

Column 3—Enter old fallow as O. F., and new fallow as N. F.

Column 5—The soil factors will be found in Statement B, attached to the Rent-rate Report of the group. This column and column 6 will be blank for waste, old fallow groves, and *birs* (Settlement Code, paragraph 212)

Column 6—Is column 4 multiplied by column 5.

Columns 7 and 8—The deduction for an improvement will be the number of soil-units added by the improvement.

[*Example*—An acre of morand I mamuli dry (factor 32) represents 32) soil-units. If the tenant, by constructing a well, has made it irrigable, it will be classed as morand I irrigated (factor 56), and will represent 56 soil-units. The soil-units added by the improvement are the difference between 32 and 56 or 24; and these are to be deducted for each acre thus improved under section 79, and entered in column 8.]

The deduction for new fallow (see Rule XII) will be the number of soil-units represented by one-third of the *total* area of the class in question that is included in the *holding*.

Village unit-rate.—This rate, as proposed by the Settlement Officer, will be found in Statement C attached to the Rent-rate Report. Changes made in these proposals are detailed in the orders passed on the Report, which must always be referred to

Note 1.—The *sanctioned rate* not the *proposed rate*, the *ryoti rate* not the *sir rate*, must be taken.

Note 2.—The rate is in *decimals* of an anna.

*PART II.—Grounds for enhancing the deduced
rental value.*

A.—UNIT-RATES.		B.—PRICES.		C.—AVERAGE RENT PER ACRE PAID BY ORDINARY TENANTS.		
Village rate.	Standard rate for group.	Percentage rise in prices, with No. and date of Notification by Local Government.	Maximum enhancement per cent. admissible, with Notification if declared by Local Government.	At settlement or when rent was last fixed (with year in latter case)	At time of application.	Rise per cent of column 6 on column 5.
1	2	3	4	5	6	7
		Notification No. 125 of 30th February 1905.	Notification No. 125 of 30th February 1905.	Rs. a. p.	Rs. a. p.	
65	60	24	15	0 6 1	0 6 8	10

*(Chapter VII—Of Ordinary Tenants—
Instructions under Section 66.)*

DIRECTIONS.

Column 1.—See last "Direction" to Part I.

Column 2.—The standard rate is shown here for general purposes of comparison. It will be found, as proposed by the Settlement Officer, in the body of the Rent-rate Report; but may have been altered in the orders on that Report which should always be referred to.

Column 4.—Will be the percentage (if any) declared by the Local Government as the limits of rent enhancement. If no such declaration has been made, it will be two-thirds of the percentage in column 3 (Rule IV).

Column 5.—The rate per acre will be obtained by distributing the total rental payable by the ordinary tenants of the village, as such, over the occupied area in respect of which it is payable, as shown in the Settlement record, or, if the rent has been fixed since settlement, in the jamabandi abstract of the year in which it was fixed. In the former case the rental as finally fixed by the Settlement Officer must be taken.

Column 6.—The rate per acre will be calculated as above from the corresponding entries in the jamabandi abstract of the last annual papers.

PART III.—Calculation of limiting rent and determination of fair rent (Rule VII).

Existing rent payable on holding at time of application or reference.	Present net deducted rent of holding as calculated in Part I.	Rent of column 2 enhanced by (a) per cent on ground A (Rule III).	Rent of column 3 enhanced by (b) per cent on ground B (Rule IV).	Rent of column 3 enhanced by (c) per cent on ground C (Rule V).	Existing rent increased by 33 per cent (Rule VII).	Limiting rent selected (Rule VI and VII).
1	2	3	4	5	6	7
Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs.
21 8	14 2	14 13	17 1	16 5	28 9	17 1

Fair rent finally fixed or determined, in words and figures ——— Rs.
17 (Rupees seventeen only).

Date from which it is payable ———

Date of order.

Signature of Revenue-officer.

DIRECTIONS.

Column 3.—At (a) enter the percentage of enhancement (if any) decided upon under Rule III (in this case 5 per cent) after reference to columns 1 and 2 of Part II. If no enhancement is to be made under that rule, repeat the rent of column 2 in this column without alteration.

Column 4.—At (b) enter the percentage of enhancement (if any) decided upon under Rule IV (in the case 15 per cent) after reference to column 4 of Part II. If no enhancement is to be made under that rule repeat the rent of column 3 in this column without alteration.

*(Chapter VII—Of Ordinary Tenants—
Sections 67 & 68.)*

Column 5.—At (c) enter the percentage of enhancement (if any) decided upon under Rule V (in this case 10 per cent) after reference to column 7 of Part II. If no enhancement is to be made under that rule, repeat the rent of column 3 in this column without alteration.

Column 7.—In this column enter the rent either of column 4 or of column 5, whichever is selected under Rule VI, or of column 6, if prescribed by Rule VII.

PART IV.—Grounds for the decision arrived at.

DIRECTIONS.

Here any objections raised by the party should be briefly stated and discussed, and any special features in the case, and anything necessary to explain how the rent has been fixed, briefly noted.

2 In particular if the Revenue-officer has allowed any enhancement under Rule III, the statement of the Settlement Officer, that the unit-rate adopted was fixed lower than the circumstances warranted, should be referred to.

3. And if the Revenue-officer—

(1) has entered in Part III an enhancement smaller than the maximum enhancement permissible under Rule III or IV, or V; or

(2) has selected as the limiting rent the lower (and not the higher) of the two rents shown in columns 4 and 5 of Part III; or

(3) has fixed a rent as fair which is lower than the limiting rent; or

(4) has (under Rule VIII) fixed a rent as fair which is higher than the limiting rent;

he should in each case briefly record his reasons for doing so.

Rent of ordinary tenant regulated by agreement.

67. An ordinary tenant shall, subject to the provisions of sections 13, 14, 15, 16, 63, 66 and 78, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Fresh proceedings not to be taken for seven years.

68. When the rent of a tenant has been fixed by a Settlement Officer under section 63, or where a tenant has agreed to pay an enhanced rent for his holding under section 65, or when a tenant is holding at a rent fixed as fair and equitable under section 66 or section 78, or when a rent has been agreed upon by contract or consent between the landlord and his tenant in respect of any holding, or when an order under section 66 to eject a tenant from his holding has become void from failure of the landlord to deposit the amount of compensation (if any) determined as due to the tenant under section 32, no notice of enhancement under section 64 shall be served on such tenant in respect of such holding, nor shall any further enhancement, by contract or consent or otherwise in respect of

(Chapter VII—Of Ordinary Tenants—
Sections 69 & 70.)

such holding be permissible, for a period of seven years from the date on which the settlement made by the Settlement Officer took effect, or from the date of such fixation, agreement, contract or consent, or from the date of such order for ejectment becoming void, as the case may be:

Provided that, where a tenant is holding land under a special contract with his landlord at a favourable rent for a term of years in consideration of temporary deterioration, or of the labour or expense involved in the reclamation by such tenant of the land from waste, nothing in this section shall be construed to prevent a fair rent being fixed or agreed upon after the expiration of the term of such contract.

69. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

Grounds on which an ordinary tenant may be ejected.

- (a) as provided in the case of an occupancy tenant by section 52;
- (b) in accordance with the provisions of section 66;
- (c) in execution of a decree for ejectment passed on the ground that his holding consists entirely of *sir* land.

70. (1) When an ordinary tenant dies, his right in his holding shall devolve as if it were land:

Devolution of ordinary tenancy.

Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act no decree or order shall be passed for the sale of the right of an ordinary tenant in his holding, nor shall such right be sold in execution of any decree or order.

Exemption of ordinary tenant-rights from Court sales.

(3) No ordinary tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right, or holding or any portion thereof; and every such sale, gift, mortgage, sub-lease (other than for

Prohibition of transfer of ordinary tenant-rights.

*(Chapter VII—Of Ordinary Tenants—
Rules under Section 73.)*

Provided that the tenant may, for the purposes of any such request and tender, and the landlord may, upon any such request and tender being made to him app'y to a Revenue-officer, or during the progress of settlement operations to a Settlement Officer, to fix the rent of the holding for the purposes of this section; and, if it is proved to the satisfaction of the officer that the rate of rent payable in respect of the holding is greater or less than the rate usually paid by ordinary tenants of holdings situate in the village or vicinity for land of similar quality with like advantages, the officer may fix the rent at the latter rate, and the rent so fixed shall for the purposes of this section be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant:

Provided, further, that, if the application is made otherwise than during the progress of settlement operations, nothing in this section shall be construed to empower a Revenue-officer to alter a rent within seven years of its having been fixed under any of the provisions of this Act, except on the ground that some such change as is described in section 15 has since occurred so as to render the rent so fixed no longer a fair rent.

(2) If a landlord to whom a request and tender are made by a tenant under sub-section (1) refuses or neglects for a period of one month to confer the rights of an occupancy tenant on the tenant, the tenant may deposit the sum aforesaid in the Court of a Revenue-officer, or, during the progress of settlement operations, of a Settlement Officer, and apply to that officer to confer upon him the rights of an occupancy tenant in respect of the holding.

(3) The officer so applied to after giving notice of the application to the landlord and hearing him if he appears, and after making such inquiry as he thinks necessary, may execute any instrument required for conferring the rights of an occupancy tenant in respect of the holding upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(Chapter VIII.—Jurisdiction and Procedure—
Sections 74 & 75.)

(4) Every person upon whom the rights of an occupancy tenant are conferred under this section shall be deemed to be an occupancy tenant for the purposes of this Act.

(5) Nothing in this section shall apply to a holding consisting entirely of *sir*-land.

NOTE I.—In the case of Zamindari villages held by inferior proprietors, the inferior proprietor, and in the case of villages held by Thekedars, whether protected or not, the Zamindar must be considered the landlord for the purposes of this section.

Where Zamindari villages are held by Muafidars, no definite rule can be laid down. The point must be decided on the basis of the agreement or sanad between the Muafidar and Zamindar.

NOTE II.—As instrument conferring occupancy rights must be stamped as a conveyance.

CHAPTER VIII.

JURISDICTION AND PROCEDURE.

74. The Local Government may direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the Code of Civil Procedure, but in such other registers as it may prescribe.

Power to direct that suits between landlords and tenants be entered in separate registers.

XIV of
1882.

Entry in special registers of certain suits between landlord and tenant.

Under Section 66 of the Central Provinces Tenancy Act, IX of 1883, the Chief Commissioner is pleased to direct that all suits between landlords and tenants as such shall be registered in a separate register, to be called the Register of Tenancy suits, and shall be kept in the form prescribed by Section 58 of the Code of Civil Procedure for the registration of civil suits.

Notification No. 5457, dated the 15th December 1883.

75. (1) In suits between landlords and tenants, as such, the plaint shall, in addition to the matters mentioned in section 50 of the Code of Civil Procedure, specify the area of the land to which the suit relates, and where the fields comprised in that land have been numbered in a Government survey, the number of each field; and, in the case of suits

Plaint in such suits.

XIV of
1882.

*Chapter VIII—Jurisdiction and Procedure—
Sections 76—78.)*

for an arrear, the amount of the yearly rent and the instalments in which it is payable.

(2) When the land to which the suit relates comprises parts of numbered fields or has not been divided into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioners' fees not allowed unless for special reasons.

76 In suits between landlords and tenants, as such, the fees of a legal practitioner shall not be allowed as costs unless the Court considers, for reasons to be recorded by it, in writing, that those fees ought to be allowed.

Set-off when allowed in suits for arrears.

77. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement Officer.

Procedure when ordinary tenant in suit pleads excessive rent.

78. (1) If in any suit in which the defendant is an ordinary tenant whose holding does not consist entirely of *sir*-land the tenant appears and, at any time before a decree is passed, pleads that his rent is excessive, the Court shall inquire into the circumstances of the rent.

(2) If the Court finds that the rent payable by the tenant has been enhanced by contract or consent above the rent determined by a Settlement Officer at the current settlement or by a Revenue-officer under this Act, or, when not so determined above the rent at which the holding was first taken up by the tenant, or, if the rent payable was determined by a Settlement Officer in proceedings taken before the commencement of this Act only after the landlord had refused to comply with the request of the Settlement officer to reduce it, the Court may stay proceedings and refer the case to a Revenue-officer, who shall thereupon fix what rent is fair and equitable for the holding. If the rent so fixed is equal to or more than the rent previously payable, the Court shall decree the arrears claimed and proved. If the rent so fixed is less than the rent previously payable, the Court shall decree against the tenant arrears of rent on account of any year only to the extent of the amount (if any) by which his

(Chapter VIII—Jurisdiction and Procedure—
Section 79.)

payments for that year fell short of the rent so fixed. The tenant shall be entitled to remain in occupation at a rent fixed under this sub-section from the commencement of the agricultural year next following the date of the institution of the suit.

NOTE.—For rules for fixations of a fair rent see rules under section 66.

(3) If the Court finds that the rent, in respect of which the plea is made by the tenant, was not enhanced or determined in the manner described in sub-section (2), but was the rent at which the tenant first took up the holding from the landlord, the Court shall pass a decree for such sum as may be due at the rent so payable, but may, before or after passing the decree, refer the case to a Revenue-officer, who shall thereupon fix what is a fair and equitable rent for the holding, and, if the tenant pays the amount decreed within one month of the date on which the rent is so fixed, he shall be entitled to remain in occupation of his holding at the rent so fixed with effect from the commencement of the agricultural year next following the date of the institution of the suit.

Explanation I.—Nothing in this section shall be construed to authorize a Revenue-officer to determine a rent higher than that payable by the tenant at the date of the institution of the suit except from the commencement of the agricultural year next following the date of the institution of the suit, and on the formal application of the landlord.

Explanation II.—A statement made during the progress of settlement operations by the Settlement Officer, and contained in any return or report prescribed by the Local Government, to the effect that a landlord refused to reduce any rent, shall be conclusive proof of such refusal.

79. When the land in respect of which an application is made under section 50 or section 51 or for which a fair rent is to be determined under section 66 or section 78, has been improved, in accordance with the provisions of this Act, by the agency, or at the expense, of the tenant, such improvement was made during term of the current settlement or the term of

Tenants' improvements how to be treated in fixing rents.

(Chapter VIII—Jurisdiction and Procedure—
Sections 80—84.)

the settlement immediately preceding it, the quality and advantages of the land, as cultivated land, shall notwithstanding anything contained in any contract or record-of-rights to the contrary, be deemed, for the purposes of any such section as aforesaid to be the quality and advantages which the land would have had and enjoyed if the improvement had not been made.

Interest on
arrears.

80. In suit for arrears, interest on the arrears may be allowed up to the date of institution, at such rate, not exceeding twelve per cent per annum, as the Court thinks fit.

No appeal in
certain suits
for arrears.

81. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class as defined in the Central Provinces Civil Courts Act, 1885, shall not be subject to appeal unless—

XVI
of 1885.

(a) the amount or value of the subject-matter of the suit exceeds one hundred rupees; or

(b) a question relating to a title to land or some interest in land, has been determined as between parties having conflicting claims thereto.

Application
for execution
by sale of
holding or by
ejectment.

82. An application for the execution of a decree for an arrear of rent by sale of the holding in respect of which the arrear accrued or by ejectment of the tenant shall contain a statement showing the tahsil and village in which the holding is situate, the numbers borne in the village rent-roll by the fields constituting the holding, the rent annually payable, and the years in which the decreed arrears accrued.

Arrears de-
creed not to
be on current
year's ac-
count.

83. No such application as is referred to in the foregoing section shall be admitted until after the expiration of the year in which the arrear, or any part of the arrear, accrued.

Procedure in
execution by
sale of hold-
ing.

84. (i) A decree for arrears of rent due in respect of an absolute-occupancy holding shall, if sale of such holding be ordered in execution, be executed as if it ordered sale in pursuance of a

(Chapter VIII—Jurisdiction and Procedure—
Section 85.)

of contract specifically affecting the holding, and shall under section 320 of the Code of Civil Procedure be transferred to the Collector for execution.

(2) The Collector executing the decree may, notwithstanding anything contained in section 305 of the Code of Civil Procedure, allow the tenant time in which to pay the amount due: Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed two months.

85. (1) A decree for an arrear of rent due in respect of an occupancy or ordinary holding or a holding held by a sub-tenant may be executed by the ejectment of the tenant: Provided that, notwithstanding anything contained in the Code of Civil Procedure, an order for the ejectment of a tenant in execution of such a decree shall be transferred to a Revenue-officer for execution.

Procedure in
execution by
ejectment.

(2) The Revenue-officer on receiving the decree shall cause a notice to be served upon the tenant stating the date of the decree, the amount due thereunder and the numbers borne in the village rent-roll by the fields constituting the holding, and informing him that if he does not pay into Court within a month from date the amount due he will be ejected from his holding.

(3) If the amount due is not paid within the period appointed, the Revenue-officer may, subject to the provisions of sections 32, 88 and 89, eject the tenant, or may, after such enquiry as he deems necessary, postpone ejectment in order to allow the tenant time for payment: Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the Local Government, not exceed in the case of any occupancy holding or an ordinary holding not consisting entirely of *sir*-lands four months, or in the case of an ordinary holding consisting entirely of *sir*-land or a holding held by a sub-tenant one month.

(4) The Local Government may make rules

(Chapter VIII—Jurisdiction and Procedure—
Section 86.)

for the guidance of Revenue-officers executing decrees under this section.

Notification
No. 1754-V,
dated the 26th
April 1899.

I.—The note served upon the tenant under the provisions of sub-section (2) of section 85 of the Tenancy Act shall be in the form attached.

II.—If a tenant ejected under sub-section 3 of this section appears within 30 days of the date on which he was ejected, and shows that the notice issued under sub-section (2) was never served upon him, the Revenue-officer shall cancel the order of ejectment and re-open the proceedings, causing the tenant to be served in Court with the notice prescribed under Rule I.

Form of notice of ejectment in execution of a decree for arrears of rent.

To ———, son of ———, caste ———, resident of ———
Whereas I have received for execution a Civil Court decree, dated the ———, in favour of ———, son of ———, caste ———, for arrears of rent respecting the holding described in the Schedule attached amounting to Rs. ———. You are hereby informed that, unless the sum decreed is paid into my Court by the ———, you will be ejected from the holding aforesaid.

Schedule.

Name of village.	Right in which holding is held.	Khasra numbers and area of the fields constituting the holding.

Power of
Court to deal
with case of
drought or
other cala-
mity in suits
for arrears.

86. (1) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail, or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit.

(2) In any such case the Court may order that the provisions of sections 84 and 85 shall not apply to the decree.

(Chapter VIII—*Jurisdiction and Procedure—*
Section 87.)

(3) In making a decree under this section the Court shall have regard to—

- (a) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued; and
- (b) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(4) If in any such suit it appears that the land revenue of the village in which the holding is situate has been, wholly or in part, suspended or remitted on account of drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

87. (1) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment, shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

Relief against
forfeitures.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach and whether, in the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, extend a period fixed by it under sub-section (2) for remedying a damage or breach.

*(Chapter VIII—Jurisdiction and Procedure—
Sections 88 & 89.)*

(4) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of
ejected tenants
in respect of crop
and land prepared
for sowing.

88. The following rules shall be applicable in the case of every tenant ejected from a holding:—

(1) When the tenant has, before the date of his ejection, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(2) When the tenant has, before the date of his ejection, prepared for sowing any land comprised in his holding, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing the land, together with reasonable interest thereon:

Provided that a tenant shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejection, he has cultivated or prepared the land contrary to local usage:

Provided also, that the rent (if any) payable to the landlord by the tenant at the time of ejection may be set-off against any sums payable to the tenant under this section.

Payment by
tenant for
occupation of
land under
section 88.

89. When a landlord elects, under clause (1) of the last foregoing section, to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant shall pay to the landlord for the use and occupation of the land during the period for which he is allowed to retain possession.

(Chapter VIII—Jurisdiction and Procedure—
Sections 90–93.)

of the same, such rent as the Court or Revenue-officer may deem reasonable.

90. In all suits for arrears of rent, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such or by the tenant against the landlord as such.

In suits for arrears all claims between landlord and tenant to be determined. Procedure when, on sale or ejectment money is due by the landlord to the tenant.

91. (1) When it appears to a Court making an inquiry under the last foregoing section that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for sale or ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

(2) If it is so paid within the time specified, the Court shall, subject to the other provisions of this Act, make an order for the sale of the holding or the ejectment of the tenant; and, if it is not so paid, the Court shall refuse to make such order.

92. Any tenant who has been ejected from his holding or from any portion thereof, otherwise than in accordance with the provisions of this Act, may, on application to a Revenue-officer made within one year from the date of his ejectment, be re-instated in possession of such holding or portion:

Re-instatement of tenant illegally ejected.

Provided that no order passed under this section shall prejudice the right of the landlord to eject the tenant so re-instated, or the right of a tenant whose application for re-instatement is rejected to establish his title to his holding and to recover possession thereof by means of a regular suit:

1 of 1877. Provided, also, that possession of a tenancy, or of any portion thereof, shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof.

93. (1) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof or to the state of the holding at any specified time, be recorded, he

Application to measure or ascertain condition of holdings.

*(Chapter VIII—Jurisdiction and Procedure—
Section 94.)*

may apply to a Revenue-officer; and that officer shall thereupon, in presence of the parties,—

- (a) make or cause to be made such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon.

NOTE.—This section does not empower a Revenue-officer to enquire into or record a finding in regard to alleged encroachments. All that should be done under this section is to record the facts existing at the time the enquiry is made. Any deduction from those facts is a matter for the Civil Court.

or,

- (b) (where the applicant seeks to have evidence recorded), record that evidence:

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(2) When any matter has been recorded under this section, the record thereof shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

94. (1) The period of limitation for a suit instituted by a tenant other than an absolute-occupancy tenant to recover possession of land from which he has been ejected shall be two years from the date on which he is ejected.

(2) Whenever rent is taken by division of the produce or by estimate or appraisement of the crop and no application is made under section 19, no suit by the landlord for the recovery of the share of the produce claimed by him as rent, or the value thereof, shall lie unless such suit is instituted within a period of one year reckoned from the date on which the rent instalment on account of the harvest to which the crop belongs fell due.

(3) In all other cases the limitation of every suit brought under this Act shall be governed by XV of 1877 the Indian Limitation Act, 1877:

*(Chapter VIII—Jurisdiction and Procedure—
Sections 95—96.)*

Provided that nothing in sections 7, 8 and 9 of the said Act shall apply to suits for arrears of rent or for the ejectment of a tenant, or to suits for recovery of possession by a tenant against his landlord.

95. Save, where it is expressly provided to the contrary, no Court other than the Court of a Revenue-officer or Settlement Officer shall fix, alter or commute any rent or call in question any rent fixed by a Revenue-officer or Settlement Officer, or shall take cognizance of any dispute or matter in respect of which authority is given by this Act to a Revenue-officer or Settlement Officer.

Jurisdiction of Civil Court barred in certain cases.

96. (1) In fixing rents and disposing of the matters referred to in the last foregoing section, Revenue-officers and Settlement Officers shall, as nearly as may be practicable, subject to the provisions of this Act and any rules made thereunder, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-Revenue Act, 1881, as from time to time amended.

Procedure on application to Revenue and Settlement Officers, and appeals from their orders,

XVIII
of 1881.

(2) From every decision or order of a Revenue-officer or Settlement Officer fixing rent or disposing of any matter referred to in the last foregoing section, an appeal shall lie as if that decision or order had been passed by that officer under the said Act.

(See also Rule under section 2 (9) *supra* and 99 *infra*).

NOTE 1.—The Chief Commissioner has invested all Revenue-officers with the following powers for disposal of business:—

- (1) The powers conferred by the Code of Civil Procedure in respect of the summoning and enforcing the attendance of parties and witnesses and compelling them to give evidence, of compelling the production of documents, of issuing commissions and of referring matters to arbitration. Such powers to be exercised by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure. Notification No. 4032, dated the 16th August 1884.
- (2) The powers conferred on a Civil Court by sections 218 to 222, both inclusive, of the Code of Civil Procedure, regarding costs and the powers conferred on a Civil Court by the said Code for the execution of decrees. Notification No. 6051, dated the 16th October 1888.
- (3) In the execution of any order of the nature of a decree, including any order for the payment of costs, Revenue-officers shall, so far as may be, follow the procedure prescribed by the Code of Civil Procedure for the execution of a decree of the Civil Court. Notification No. 6052, dated the 16th October 1888.

284 *Central Provinces Tenancy.* [ACT XI,
(*Chapter VIII.—Jurisdiction and Procedure—*
Sections 97—98—IX.—Supplemental—Section 99.)

Jurisdiction of Civil Court in suits between landlords and tenants. 97. Except, as provided in section 95, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such :
Provided that—

(a) a judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement Officer, hear any such suit ; and

(b) the Local Government may, subject to the other provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as it thinks fit, and not otherwise.

Notification No. 586, dated the 28th January 1904.

The suits specified in the following schedule shall be heard and determined only in the Courts (being competent to try the same) of the grades indicated in the second column of the schedule :—

Description of suits.	Grade of Court by which triable.
(1) Suits for ejectment ...	Court of the Subordinate Judge.
(2) Suits to recover possession of land from which a tenant has illegally been ejected by the landlord.	
(3) Suits for arrears of rent ...	
	Any Court subordinate to the District Court.

NOTE.—Under Notification No. 2464, dated the 1st May 1881, the Tahsildar of Sironcha is empowered to take cognizance of suits for ejectment arising within the limits of the Sironcha Tahsil.

Recovery of fines and penalties.

98. Any sum due as fine or penalty under this Act shall be recoverable as if it were an arrear of land revenue.

CHAPTER IX.
SUPPLEMENTAL.

Power to Local Government to make rules.

99. The Local Government may, by notification in the local official Gazette, make rules for the purpose of carrying out the objects of this Act and prescribing the procedure and practice thereunder.

*(Chapter IX—Supplemental— Rules under
Section 99.)*

I.—Every order passed under this Act shall be recorded in writing and signed and dated by the officer passing it and shall contain a statement of the reason on which it is based.

Notification
No. 1756,
dated the
26th April
1899.

II.—The exercise of the powers conferred upon a Deputy Commissioner by section 96 (1) read with section 16 of the Central Provinces Land Revenue Act, shall be subject to the general or special orders of any Revenue-officer to whom he is subordinate.

III.—A Revenue-officer may, in the course of any proceedings before him, make local inquiry himself, or cause a local inquiry to be made by such person as he may deem fit. In the former case a note, and in the latter case a report, of the results of the enquiry shall form part of the record.

IV.—Proceedings on the application mentioned in the first schedule appended to these rules shall be conducted in conformity with the provision of the Code of Civil Procedure mentioned in the second column of the second schedule so far as they may be applicable: Provided that notwithstanding anything in these provisions, the Revenue-officer dealing with an application may issue any process free of charge to the person applying for it.

V.—Subject to the exceptions specified in sections 176, 640 and 641 of the Code of Civil Procedure, a Revenue-officer may compel the attendance of any person whose presence before him he considers to be necessary in any proceedings under the Act, whether such a person be a party to the proceedings or not; and may, for this purpose, exercise with respect to any such person, the power of arrest conferred upon Civil Courts by section 174 of the Civil Procedure Code for enforcing the attendance of witnesses.

VI.—Any process addressed to a landlord, who does not permanently reside in the village in or from which any land which forms the subject of any proceedings under this Act is cultivated, may be served upon the local agent through whom he manages that land.

VII.—No proceedings before a Revenue-officer under the Act shall fail or become void, and no order shall be set aside, reversed, or substantially modified, on account of any error, defect or irregularity of procedure, unless it appears that some person has suffered material prejudice thereby.

*(Chapter IX, Supplemental—Section 100.)**First Schedule referred to in Rule IV.*

Number of Section.	Description of application.
10	For the imposition of a penalty for levy of something in excess of rent legally payable.
12	For the imposition of a penalty for refusing a receipt, or giving a defective receipt.
30	For the imposition of a penalty for illegal distraint, or illegal removal of produce.
36	For possession of a surrendered holding.
41	For the re-instatement of a tenant in an absolute-occupancy holding.
47	For possession of a transferred occupancy holding.
61	For the grant to a sub-tenant of the rights of an ordinary tenant.
71	For possession of a transferred ordinary holding.
92	For the re-instatement of a tenant illegally ejected.

Second Schedule referred to in Rule IV.

Chapter of the Civil Procedure Code.	Sections.
Chapter VI.—Of the issue and service of summons.	64, 66, 67, 69, 70, 72 to 94, both inclusive.
Chapter IX.—Of the examination of the parties.	117 to 120, both inclusive.
Chapter XIV.—Of the summoning and attendance of witness.	159 and 163 to 178, both inclusive.
Chapter XV.—Of the hearing of the suit and the examination of witnesses.	79, 180, 181, 192 and 193 and (as modified by section 12 of the Central Provinces Laws Act, XX of 1875, amended by Act II of 1879) 182, 190 and 191.
Chapter XVII.—Of judgment and decree.	198 to 203, both inclusive, and 217.

Repeals.

100. The enactments mentioned in this schedule are repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

See Section 100.

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1883	XI	The Central Provinces Tenancy Act, 1883.	The whole.
1889	XVII	The Central Provinces Tenancy Act, 1889.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Acts IX of 1883 and XVII of 1889.

**THE CENTRAL PROVINCES COURT OF
WARDS ACT, XXIV OF 1899.**

THE CENTRAL PROVINCES COURT OF WARDS ACT, 1899.

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PASSED BY THE GOVERNOR-GENERAL OF INDIA IN
COUNCIL.

(Received the assent of the Governor-General on the
13th October 1899.)

**An Act to consolidate and amend the law
relating to the Court of Wards in the
Central Provinces.**

WHEREAS it is expedient to consolidate and
amend the law relating to the Court of Wards
in the Central Provinces; it is hereby enacted as
follows:—

Preliminary.

1. (1) This Act may be called the Central
Provinces Court of Wards Act, 1899.

Short title
extent and
commence-
ment.

(2) It extends to the territories for the time
being administered by the Local Government of the
Central Provinces; and

(3) It shall come into force at once.

2. In this Act, unless there is anything
repugnant in the subject or context,

Definitions.

(a) the expression "Government ward" means
any person of whose property, or of
whose person and property, the Court of
Wards may, for the time being, have
the superintendence under this Act:

(b) "land" includes the rights of landholder
in respect of the land of which he is the
malguzar, or zamindar or the muafidar,
jagirdar, ubaridar or other assignee of
land-revenue, or in which he is interested:
and

(c) "landholder" means a malguzar as defined
in the Central Provinces Land Revenue
Act, 1881, and the zamindar of any zam-
indari in a Scheduled District, and includes
a muafidar, jagirdar, ubaridar or other
assignee of land-revenue, and any person
not hereinbefore specified who is interest-
ed in land and belongs to a class of
which the Local Government, with the
previous sanction of the Governor-General
in Council, has declared the members
to be land-holders for the purposes of
this Act.

290 *Central Provinces Court of Wards.* [ACT XXIV
(Preliminary—Sections 3—6.)]

Notificati o n
No. 910, da-
ted the 13th
February
1904.

With the sanction of the Governor-General in Council, the Chief Commissioner is pleased to declare under section 2, clause (c) of the Central Provinces Court of Wards Act, 1899, that the Zamindars of the Bhandara, Balaghat, Raipur, Bilaspur and Sambalpur districts whose estates are not specified in Part VI of the first Schedule of the Scheduled Districts Act, 1874, are landholders for the purposes of the said Court of Wards Act.

Commis-
sioner to be
Court of
Wards.

3. Subject to the provisions of section 9, the Commissioner shall be the Court of Wards for the limits of his division.

Superintend-
ence by
Court of
Wards of
property of
disqualified
landholder.

4. The Court of Wards may, with the previous sanction of the Local Government, assume the superintendence of the property of any landholder owning land within the local limits of its jurisdiction who is disqualified to manage his property.

Landholders
to be deemed
disqualified
in certain
cases.

5. (1) The following persons shall, for the purposes of section 4, be deemed to be disqualified to manage their own property, namely:—

- (a) minors;
- (b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs; and
- (c) persons declared by the Local Government to be incapable of managing their property owing to—
 - (i) any physical or mental defect or infirmity;
 - (ii) their having been convicted of a non-bailable offence and being unfitted by vice or bad character; or
 - (iii) their being females.

(2) No suit shall be brought in any Civil Court in respect of any declaration made by the Local Government under sub-section (1), clause (c).

Superintend-
ence by
Court of
Wards on
application
of proprietor.

6. (1) Any landholder may apply to the Local Government to have his property placed under the superintendence of the Court of Wards, and the Local Government may on such application, if it thinks it expedient in the public interests, order the Court of Wards to assume the superintendence of the property.

(Preliminary—Sections 7 & 8.)

(2) An order made by the Local Government under sub-section (1) shall be sufficient to authorize the Court of Wards to assume the superintendence of the property referred to therein, and no suit shall be brought in any Civil Court in respect of any such order.

7. (1) Whenever the Court of Wards receives information that any landholder has died and has reason to believe that the heir of the landholder is a person who is, or should be adjudged or declared to be, disqualified under section 5, the Court may—

Temporary provisions for custody of heirs and protection of property in certain cases.

(a) take such steps and make such order for the temporary custody and protection of the property inherited as it thinks fit; and

(b) if the heir is a minor, direct that the person (if any) having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as the Court may appoint, and make such order for the temporary custody and protection of the minor as it thinks fit: Provided that, where the minor is a female and belongs to a class the females of which do not usually appear in public, her production shall be required only in accordance with the manners and customs of the country.

(2) Whenever the Court of Wards proceeds under this section it shall forthwith report its action or the information of the Local Government.

8. Where the Court of Wards assumes the superintendence of the property of a minor or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the Local Government, assume the superintendence of his person also:

Superintendence by Court of Wards of person of disqualified landholder.

(*Preliminary--Sections 9--12.*)

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

Superintendence by Court of Wards where disqualified landholder owns land in more than one division.

9. Where a landholder owns land within two or more divisions, such one only of the Court of Wards as the Local Government may determine in this behalf shall assume the superintendence of the property, or of the person and property, of the landholder.

Assumption of superintendence to be notified and to extend to whole of Government ward's property.

10. (1) Whenever the Court of Wards assume the superintendence of the property of any person under this Act, the fact of such assumption, and the date on which it was sanctioned by the Local Government, shall be notified in the local official Gazette.

(2) On and with effect from the date of such sanction, the whole of the property, moveable and immoveable, of such person, whether the existence of any such property may be known to the said Court or not, shall be deemed to be under the superintendence of the Court of Wards.

(3) Any property which the Government ward may inherit subsequently to the date of such sanction, shall also be deemed to be under the superintendence of the Court of Wards.

(4) The Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which the ward may acquire, otherwise than by inheritance, subsequently to the date of such notification.

Barring of suits to contest authority to assume superintendence.

11. No suit shall be brought in any Civil Court to contest the authority of the Court of Wards in respect of the property, or of the person and property, of any person under this Act on the ground that such person was not, or is not a landholder or a minor.

Notices to claimants against Government ward.

12. (1) On the issue of a notification under section 10, the Court of Wards shall publish in the local official Gazette and in such other manner as the Local Government may, by general or special

(Preliminary—Section 13.)

order direct, a notice in English and also in the Vernacular, calling upon all persons having claims against the Government ward or his immoveable property to submit the same in writing to it within six months from the date of the publication of the notice aforesaid.

(2) Every such claim (other than a claim on the part of the Government) not submitted to the Courts of Wards in compliance with the provisions of sub-section (1), shall, save in the case provided for by section 16, sub-section (2), clause (c) be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Provided that if the Court of Wards is satisfied that the claimant was unable to comply with the provisions of sub-section (1), it may receive his claim at any time after the date of the expiry of the period aforesaid, but any claim so received shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid.

Rules for the publication of notices to claimants against Government wards.

(1) In addition to the publication of a notice in English and in the Vernacular in the local Gazette, calling upon all persons having claims against the Government ward on his immoveable property to submit the same in writing to the Court of Wards within six months from the date of publication of such notice, a similar notice shall be published in such local newspaper or newspapers as the Court of Wards may direct.

Notification
No. 5460,
dated 21st
October 1901.

(2) A copy of such notice shall be sent to each of the known creditors and a copy of it shall be posted on the District office notice board of the district within which the ward resides, or within which any portion of his immoveable property is situate.

(3) The notice shall also be proclaimed and a copy of it posted in the principal village or villages of the ward's estate.

13. (1) Every claimant submitting his claim in compliance with the provisions of section 12, sub-section (1), shall furnish, along with his written statement of claim, full particulars thereof, and shall,

Claimants to
furnish full
particulars and
documents.

(*Preliminary—Sections 14—15.*)

at the same time, produce all documents (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document.

(2) The Court of Wards shall, after marking for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the claimant.

(3) If any document, which is in the possession or under the control of the claimant is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the Government ward, whether during the continuance of the management or afterwards, in any suit brought by the claimant or by any person claiming under him.

Stay of proceedings of Civil Courts.

14. If a Civil Court has directed any process of execution to issue against any immoveable property of a Government ward or the rents thereof or any crops standing thereon, the Court of Wards may, at any time within one year after the issue of a notification under section 10, apply to the Civil Court to stay proceedings in the matter of such process, and the Civil Court may, on such terms regarding interest or compensation for delay as may appear to it to be just and reasonable, stay such proceedings accordingly.

Adjudication of claims.

15. (1) On receipt of all claims submitted in compliance with the provisions of sections 12 and 13, the Court of Wards shall proceed to investigate such claims and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(2) When the Court of Wards has admitted any claim under sub-section (1), it may make to the claimant a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future or of both; and if such proposal, or any modification of it, is accepted by the claimant and

(Preliminary—Section 16.)

his acceptance is finally recorded and attested by the Court of Wards or by any Revenue-officer not being below the rank of an Assistant Commissioner whom the Local Government may, by general or special order, appoint in this behalf, it shall be conclusively binding upon the claimant:

Provided that if, when the superintendence of the property by the Court of Wards is relinquished or otherwise terminates, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (1) as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a Government ward or his property which has been submitted to and received by the Court of Wards:

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

Under section (15) (2) of the Court of Wards Act, the Chief Commissioner is pleased to direct that the Court of Wards may delegate the duty of recording and attesting the acceptance by claimants of the proposals for compromise of claims to any Assistant Commissioner or Extra-Assistant Commissioner who has passed the Departmental Examination in Revenue Law and Procedure by the Higher Standard.

Notification
No. 5459,
dated 21st
October 1901.

16. (1) When all claims have been investigated under section 15, the Court of Wards shall submit to the Local Government a schedule of the debts and liabilities of the Government ward, and the Local Government may, when the estate appears to be involved beyond all hope of extrication or for any other sufficient reason, by an order published in the local official Gazette, direct that, on a date to be fixed by the order, the superintendence of the property and person of the ward shall be relinquished by the Court of Wards.

Report to
Chief Com-
missioner.

(*Preliminary—Sections 17—19.*)

(2) On the date so fixed—

(a) the superintendence shall terminate;

(b) the owner of the property under superintendence shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property;

(c) the claims referred to in section 12, subsection (2), shall revive.

(3) In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which such superintendence has continued shall be excluded.

Appointment,
&c., of
managers
by Court of
Wards.

17. The Court of Wards may appoint a manager of the property of any Government ward under its superintendence.

Delegation
of powers
by Court of
Wards.

18. (1) With the general or special sanction of the Local Government, the Court of Wards may, from time to time, delegate all or any of its powers to the Deputy Commissioner of any district in which any part of the property of a Government ward is situated, or to any other person whom it may appoint in this behalf, and may, at any time, with the like sanction, revoke such delegation.

(2) Subject to any general or special orders of the Local Government, the Court of Wards may exercise all or any powers conferred on it by this Act through the Deputy Commissioner of any district in which any part of the property of a Government ward is situated, or through any other person whom it may appoint in this behalf, and, subject to the like orders, any such Deputy Commissioner may exercise all or any powers delegated to him under this Act through any Revenue-officer subordinate to him.

Liabilities,
&c., of
managers
and other ser-
vants of Court
of Wards.

19. (1) Every manager appointed by the Court of Wards shall—

(*Preliminary—Sections 20 & 21.*)

- (a) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management ;
- (b) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties ; and
- (c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164, and 165 of the Indian Penal Code ; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards. XVL of 1866.

20. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence. Power for Court of Wards to appoint guardians of certain Government wards.

21. Subject to the provisions of this Act and of any rules thereunder, the Court of Wards— General powers of Court of Wards.

- (a) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if it were not under the superintendence of the Court of Wards, might do for its care and management ; and
- (b) may, of itself or through the guardian (if any) appointed by it under this Act, do, in respect of the person of any Government ward whose person is for the time being under its superintendence, all such things as may lawfully be done by a guardian.

(*Preliminary—Sections 22—26.*)

Custody,
education and
residence of
certain
Government
wards.

22. The Court of Wards may pass such orders as it thinks fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and when he is a minor, in respect of his education.

Allowances
for Govern-
ment ward
and his
family.

23. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependants.

Duties of
Court of
Wards or
manager.

24. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Powers of
Court of
Wards as to
property of
Government
wards.

25. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Local Government, mortgage, sell or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

Notice of
suit.

26. No suit relating to the person or property of any Government ward shall be brought in any Civil Court until the expiration of two months after notice in writing, stating the name and place of abode of the intending plaintiff, the cause of action and the relief claimed, has been delivered to, or left at the office of, the Court of Wards; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of a notification issued under section 10, sub-section (1).

(Preliminary—Sections 27—31.)

27. In every suit brought by or against a Government ward, the manager of the ward's property or, if there is no manager, the Court of Wards having the superintendence of the ward's property, shall be named as the next friend or guardian for the suit, as the case may be.

Manager or Court of Wards to be next friend or guardian in suit by or against Government wards.

28. If, in any suit brought by or against Government ward, any Civil Court decrees any costs against the Government ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Payment of costs.

29. Every process which may be issued out of any Civil or Revenue Court against any Government ward shall be served on the Government ward's next friend or guardian for the suit.

Processes against Government ward to be served on next friend or guardian. Authority of Court of Wards required in case of suits brought on behalf of Government wards.

30. No suit shall be brought, and no appeal in any suit shall be preferred, on behalf of any Government ward unless it is authorized by an order in writing of the Court of Wards :

Provided as follows :—

(1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards ;

(2) a suit for arrears of rent may be brought on behalf of a Government ward, if authorized by an order of the manager of the property on which the rent is due.

31. (1) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof (except such interest as may be created by a will made in accordance with section 32), or to enter into any contract which may involve him in pecuniary liability ; and no suit shall be brought in any Civil Court whereby to

Disabilities of a Government ward.

(*Preliminary—Sections 32—34.*)

charge any person upon any promise made after he has ceased to be a Government ward to pay any debt contracted during the period when he was a Government ward, or upon any ratification made after he has ceased to be a Government ward of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification.

(2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage :

Provided that a Government ward shall not incur, in connection with such a contract, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

Consent of
Local Gov-
ernment
necessary to
adoptions or
wills
made by
Government
wards.

32. No adoption by a Government ward, and no written or verbal permission to adopt given by a Government ward, or will made by a Government ward, shall be valid without the consent of the Local Government obtained either previously or subsequently to the adoption or to the giving of the permission, or the making of the will, on application made to it through the Court of Wards.

Procedure
when suc-
cession to Gov-
ernment
ward's pro-
perty is
disputed.

33. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may, with the previous sanction of the Local Government, either direct that the property or the part thereof be made over to any person claiming the property, or retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court, or institute a suit of interpleader against all the claimants.

Withdrawal
of superin-
tendence of
Court of
Wards.

34. (1) The Court of Wards may, with the sanction of the Local Government, at any time withdraw its superintendence from the person or property or both, of a Government ward, and shall withdraw its superintendence as soon as—

(Preliminary—Section 34.)

- (a) in the case of a person disqualified under clause (a) of section 5, sub-section (1), he attains his majority ;
- (b) in the case of a person disqualified under clause (b) of the same, he ceases to be of unsound mind and incapable of managing his affairs ;
- (c) in the case of a person disqualified under sub-clause (i) of clause (c) of the same, his physical or mental defect or infirmity is removed or ceases :

Provided as follows :—

- (i) Whenever a Government ward dies or ceases to be disqualified and his property is still encumbered with debts and liabilities, the Court of Wards may, with the previous sanction of the Local Government, either release such property or retain it under its superintendence until such debts and liabilities have been discharged ; and
- (ii) if one or more of the proprietors of a property remain disqualified, although another or other may have ceased to be disqualified, the Court of Wards may, with the previous sanction of the Local Government, retain the whole of the property under its superintendence, paying any proprietor, who has ceased to be disqualified, the surplus income accruing from his share of the estate.

(2) Where any question arises as to whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (a), or from any property under clause (c), of sub-section (1), the decision of the Local Government thereon shall be final, and no suit shall be brought in any Civil Court in respect of such decision.

(*Preliminary—Sections 35—40.*)

Appointment of guardian in certain cases. 35. (1) Where, in exercise of the powers conferred by section 34, the Court of Wards decides to withdraw its superintendence from the person and property of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the person or property, or both, of the minor, and such appointment shall take effect from the date of such release.

VIII of 1890. (2) in appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the Guardians and Wards Act, 1890, and every guardian so appointed shall have, and be subject to, the same rights, duties and liabilities as if he had been appointed under that Act.

Withdrawal to be notified in Gazette. 36. Where the Court of Wards withdraws its superintendence from any person or property under this Act, the fact of such withdrawal shall be notified in the local official Gazette.

Appeals. 37. An appeal shall lie from every order passed under this Act, whether original or on appeal,—

(a) if the order is that of a Commissioner, to the Local Government;

(b) if the order is that of a Deputy Commissioner, to the Commissioner;

(c) in all other cases, to the Deputy Commissioner :

Provided that in no case shall a third appeal lie.

Control of Local Government. 38. All orders or proceedings under this Act shall be subject to the supervision and control of the Local Government; and the Local Government may, if it thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Exercise of discretion not to be questioned in Civil Court. 39. No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act.

Power for Local Government to make rules. 40. (1) The Local Government may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration ;
- (b) regulate the amount of security to be given by managers ;
- (c) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Local Government ;
- (d) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered to the Court of Wards and by the Court of Wards to the Local Government ;
- (e) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward ;
- (f) regulate the procedure in inquiries by, and in appeal from orders of, the Court of Wards under this Act, and fix the periods of limitation which shall apply to such appeals ;
- (g) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits ;
- (h) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned ; and
- (i) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(3) All rules made under this section shall be published in the local official Gazette and shall on such publication have effect as if enacted by this Act.

304 *Central Provinces Court of Wards.* [ACT XXVI,

(*Preliminary--Rules under Section 40.*)

Rules under section 40, sub-section (1), of the Central Provinces Government Wards Act.

Notification
No. 5458,
dated 21st
October 1901.

I.—The previous sanction of the Financial Commissioner shall be obtained to any one of the following transactions affecting the funds or pecuniary interests of any estate under the superintendence of the Court of Wards:—

- (a) The expenditure of any sum or the incurring of any liability other than a loan exceeding Rs. 5,000 in value.
- (b) The compromise of any claim exceeding Rs 5,000 in value.
- (c) The taking of any loan.
- (d) The general revision of theka-jamas or tenants rents.
- (e) The lease for felling timber of the forests of an estate.

II.—All Government securities, including stock-notes and shares in Government Railways the property of Government wards, shall be forwarded to the office of the Comptroller, Central Provinces, for safe custody, if it is likely that they will be held for a longer period than twelve months.

III.—All Government securities, including stock-notes and shares in Government Railways, which are likely to be returned within a period of twelve months, all securities other than Government securities, all title-deeds the property of Government wards, and all Savings Bank pass-books in which the deposits have been completed, shall be deposited in the District Treasury for safe custody.

IV.—For the purposes of disposing of business connected with the management of estates of Government wards under its superintendence, the Court of Wards shall have the powers conferred by the Code of Civil Procedure on a Civil Court in respect of the summoning and enforcing the attendance of parties and witnesses and, compelling the production of documents and of issuing commissions.

Such powers may be exercised by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure.

V.—The period of limitation for appeals against orders passed under this Act shall be as follows:—

- (1) In the Court of Deputy Commissioner ...30 days from the date of decision or order complained of.
- (2) In the Court of Commissioner ...60 days from such date.
- (3) In the Court of Financial Commissioner ...90 days from such date.

(Preliminary—Rules under Section 40.)

VI.—The following records may be made over to the proprietor of an estate released from the control of the Court of Wards :—

- (i) Correspondence between the Deputy Commissioner as representing the Court of Wards and the vendor regarding any purchase of property made on behalf of the estate, together with all documents affecting the purchase. Also correspondence between the Deputy Commissioner and the purchaser regarding any sale of the property of the estate, together with all documents affecting the sale.
- (ii) Correspondence between the Deputy Commissioner as representing the Court of Wards and the persons who have claims against or are indebted to the estate regarding such claims, and all documents appertaining thereto.
- (iii) All correspondence between the Deputy Commissioner and lessees regarding leases granted by Deputy Commissioner as representing the Court of Wards.
- (iv) The papers regarding all civil and revenue suits and all criminal cases in which the Court of Wards has been a party: provided that ordinary opinion given by the Judicial Commissioner or Government Pleader need not be given. Copy of any such opinion shall not be made over without a special order of the Deputy Commissioner to that effect.
- (v) *Sattas* and all other documents entered into between the Court of Wards and farmers of *lac* and other forest produce; and counterparts received from them.
- (vi) Such statement of account as may suffice to show clearly the financial position of the estate at the time of its release from management.

NOTE.—Copies of any other accounts or vouchers will be given on application at the expense of the proprietor and free examination of the accounts by him will be permitted.

After the accounts of the estates have been audited, and the audit objections have been finally disposed of, all account registers may be made over to the proprietor.

(Preliminary—Section 41—The Schedule.)

(vii) All bonds and other documents securing repayment of money to the estate.

VII.—The Deputy Commissioner may, with the sanction of the Commissioner of the Division, refuse to give to the proprietor of an estate any of the records mentioned in the last rule; and he may also, with like sanction, grant, on the application of the proprietor, any records not mentioned therein: provided that without the express sanction of the Financial Commissioner no record falling under the following heads shall be given up:—

- (i) Correspondence between the Deputy Commissioner or manager and superior authority, and reports made by the Deputy Commissioner or manager.
- (ii) Correspondence with the Judicial Commissioner or Government Pleader.
- (iii) Correspondence reflecting in any way on the conduct of Government servants or employes of the Court of Wards.
- (iv) Correspondence relating to allowances made to or claims preferred by members of the family of the proprietor of the estate.

Repeal

41. The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

SCHEDULE.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1885 ..	XVII	The Central Provinces Government Wards Act, 1885.	The whole.
1890...	VIII	The Guardians and Wards Act, 1890.	So much of section 2 and the schedule as relates to Act XVII of 1885.
1891...	XII	The Repealing and Amending Act, 1891.	So much as relates to Act XVII of 1885.

THE LAND ACQUISITION ACT,
I OF 1894.

THE LAND ACQUISITION ACT, 1894

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PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor-General on the 2nd
February 1904.)

An Act to amend the law for the acquisition of land
for public purposes and for Companies.

WHEREAS it is expedient to amend the law for
the acquisition of land needed for public
purposes and for Companies and for determining the
amounts of compensation to be made on account of
such acquisition; it is hereby enacted as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Land Ac- Short title,
extent and
commence-
ment.
quisition Act, 1894;

(2) It extends to the whole of British India; and

(3) It shall come into force on the first day of Repeal.

x of 1870,
XVIII of
1884. March 1894.

2. (1) The Land Acquisition Act, 1870, and
Section 74 of the Punjab Courts Act, 1884, are here-
by repealed.

(2) But all proceedings commenced, officers
appointed or authorized, agreements published and
rules made under the said Land Acquisition Act
shall, as far as may be, be deemed to have been res-
pectively commenced, appointed or authorized, pub-
lished and made under this Act.

(3) Any enactment or document referring to the
said Land Acquisition Act or to any enactment
thereby repealed shall, so far as may be, be constru-
ed to refer to this Act or to the corresponding por-
tion thereof.

3. In this Act, unless there is something repug- Definitions.
nant in the subject or context,—

(a) the expression "land" includes benefits
to arise out of land, and things attach-
ed to the earth or permanently fasten-
ed to anything attached to the earth:

(b) the expression "person interested" in-
cludes all persons claiming an interest
in compensation to be made on account
of the acquisition of land under this
Act; and a person shall be deemed to
be interested in land if he is interested
in an easement affecting the land:

(Part I—Preliminary—Section 3.)

- (c) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Local Government to perform the functions of a Collector under this Act :
- (d) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act :
- NOTE.—By Notification No. 1993, dated the 21st April 1894, the Civil Judge in each district, in which there is a Civil Judge, has been appointed in the Central Provinces as such special Judicial officer.
- (e) the expression "Company" means a Company registered under the Indian Companies Act, 1882, or under the (English) Companies Act, 1862 to 1890, or incorporated by an Act or Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent :
- (f) the expression "public purpose" includes the provision of village sites in districts in which the Local Government shall have declared by notification in the official Gazette that it is customary for the Government to make such provision : and
- (g) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

VI of 1882.

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the

(Part I—Preliminary -- Section 3.)

persons beneficially interested could have acted if free from disability ;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age ; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that—

- (i) no person shall be deemed "entitled to act" whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;
- (ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;
- (iii) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis* ^{XIV of 1882.} *mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act ; and

(Part I—Preliminary—Section 3.—Part II—
Acquisition—Section 4.)

- (iv) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.
ACQUISITION.

Preliminary Investigation.

Publica tion
of prelimi-
nary notifica-
tion and
powers of
officers there-
upon.

4. (1) Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality;

to dig or bore into the subsoil ;

to do all other acts necessary to ascertain whether the land is adapted for such purpose ;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon ;

to mark such levels, boundaries and line by placing marks and cutting trenches ;

and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked to cut down and clear away any part of any standing crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such

(Part II—Acquisition—Sections 5—8.)

occupier at least seven days' notice in writing of his intention to do so.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other Chief Revenue officer of the district, and such decision shall be final. Payment for damage.

Declaration of intended Acquisition.

6. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders : Declaration that land is required for a public purpose.

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose, or for a Company, as the case may be; and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land. After declaration, Collector to take order for acquisition.

8. The Collector shall thereupon cause the land (unless it has been already marked out under Section 4) to be marked out. He shall also cause Land to be marked out, measured and planned.

(Part II—Acquisition—Sections 9 & 10.)

it to be measured and (if no plan has been made thereof) a plan to be made of the same.

Notice to
persons in-
terested.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under Section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866.

Power to re-
quire and
enforce the
making of
statements as
to names and
interests.

10. (1) The Collector may also require any such persons to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the

XIV of
1866.

(Part II—Acquisition—Sections 11—13.)

nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of Sections 175 and 176 of the Indian Penal Code.

Enquiry into Measurements, Value and Claims, and Award by the Collector.

XLV of
1860

11. On the day so fixed, or on any other day Enquiry and awards by Collector. to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under Section 9 to the measurements made under Section 8, and into the value of the land, and into the respective interests of the person claiming the compensation, and shall make an award under his hand of—

- (i) the true area of the land ;
- (ii) the compensation which in his opinion should be allowed for the land ; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

12. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested. Award of Collector when to be final.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

13. The Collector may for any cause he thinks Adjournment of enquiry. fit from time to time adjourn the enquiry to a day to be fixed by him.

(Part II—Acquisition—Sections 14—17.)

Power to
summon and
enforce
attendance
of witnesses
and produc-
tion of docu-
ments.

14. For the purpose of enquiries under this Act, the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure. ^{XIV of 1882.}

Matters to
be considered
and neg-
lected.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Taking Possession.

Power to
take posses-
sion.

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Special
powers in
cases of
urgency,

17. (1) In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Collector may immediately after the publication of the notice mentioned in sub-section (1), and with the previous sanction of the Local Government, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances.

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention

(Part II—Acquisition—Section 17—Part III—
Reference to Court and Procedure thereon—
Section 18.)

so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building, without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections, the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

PART III.

REFERENCE TO COURT AND PROCEDURE
THEREON.

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested. Reference of
Court.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

*(Part III—Reference to Court and Procedure
thereon—Sections 19—21.)*

Collector's
statement to
the Court.

19. (1) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,—

- (a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;
- (b) the names of the persons whom he has reason to think interested in such land;
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17 or either of them, and the amount of compensation awarded under section 11; and
- (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested respectively.

Service of
notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:—

- (a) the applicant;
- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

Restriction
on scope of
proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

(Part III—Reference to Court and Procedure
thereon—Sections 22 & 23.)

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

Proceedings
to be in open
Court.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

Matter to be
considered
in determin-
ing compen-
sation.

first, the market-value of the land at the date of the publication of the declaration relating thereto under section 6;

secondly, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings;

fifthly, if in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) *bond fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(Part III—Reference to Court and Procedure
thereon—Sections 24 & 25.)

(2) In addition to the market value of the land, as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

Matters to
be neglected
in determin-
ing compen-
sation.

24. But the Court shall not take into consideration—

- first*, the degree of urgency which has led to the acquisition ;
- secondly*, any disinclination of the person interested to part with the land acquired ;
- thirdly*, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;
- fourthly*, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6 by or in consequence of the use to which it will be put ;
- fifthly*, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;
- sixthly*, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put ; or
- seventhly*, any outlay or improvements on, or disposal of, the land acquired, commenced, made or affected without the sanction of the Collector after the date of the publication of the declaration under section 6.

Rules as to
amount of
compensation.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(Part III—Reference to Court and Procedure
thereon—Sections 26—28.)

(2) When the applicant has refused to make such claim or has omitted, without sufficient reason (to be allowed by the Judge), to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

26. Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts. ^{Form of awards.}

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid. ^{Costs.}

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector, that some deduction from his cost should be made, or that he should pay a part of the Collector's costs.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court. ^{Collector may be directed to pay interest on excess compensation.}

(Part IV—Apportionment of Compensation—Sections 29 & 30.—Part V—Payment—Section 31.)

PART IV.

APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may

(Part V—Payment—Section 32.)

receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other land held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section, and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid; or

(Part V—Payment—Sections 33 & 34.)

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely :—

(a) the costs of such investments as aforesaid ;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto except such as may be occasioned by litigation between adverse claimants.

Investment of
money depo-
sited in other
cases.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Payment of
interest.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

(Part VI—Temporary Occupation of Land—
Sections 35 & 36.)

PART VI.

TEMPORARY OCCUPATION OF LAND.

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

Temporary occupation of waste or arable land, Procedure when difference as to compensation exists.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly, or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

36. (1) On payment of such compensation, or on executing such agreement, or on making a reference under Section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

Power to enter and take possession, and compensation on restoration.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein.

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under

(Part VI—Temporary Occupation of Land—
Section 37.—Part VII—Acquisition of Land for
Companies—Sections 38—40.)

this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as
to condition
of land.

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

Company may
be authorized
to enter and
survey.

38. (1) Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted; and Section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

Previous
consent of
Local
Govern-
ment and
execution of
agreement
necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous
enquiry.

40. (1) Such consent shall not be given unless the Local Government be satisfied, by an enquiry held as hereinafter provided,—

(a) that such acquisition is needed for the construction of some work, and

(b) that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

*Part VII—Acquisition of Land for Companies—
Sections 41—43.)*

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court.

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41. Such officer shall report to the Local Government the result of the enquiry, and if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council, providing to the satisfaction of the Local Government for the following matters, namely :—

Agreement
with Secre-
tary of State
in Council.

- (1) the payment to Government of the cost of the acquisition ;
- (2) the transfer, on such payment, of the land to the Company ;
- (3) the terms on which the land shall be held by the Company ;
- (4) the time within which, and the conditions on which, the work shall be executed and maintained ; and
- (5) the terms on which the public shall be entitled to use the work.

42. Every such agreement shall, as soon as may be after its execution, be published in the *Gazette of India*, and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Publication
of agreement.

X of
1870

43. The provisions of sections 39 to 42, both inclusive, shall not apply, and the corresponding sections of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between

Sections 39
to 42 not to
apply where
Government
bound by
agreement
to provide
land for
Companies,

(*Part—VII—Acquisition of Land for Companies—
Section 44.—Part VIII—Miscellaneous—
Section 45.*)

such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

How agree-
ment
between
Railway
Company
and Secre-
tary of State
may be
proved.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

PART VIII. MISCELLANEOUS.

Service of
notices.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866, and service of it may be proved by the production of the addressee's receipt.

(Part VIII—Miscellaneous—Sections 46—49.)

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Penalty for obstructing acquisition of land.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

Magistrate to enforce surrender.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:

Acquisition of part of house or building.

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

(Part VIII—Miscellaneous—Section 50.)

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23, sub-section (1), thirdly, by a person interested on account of the severing of the land to be acquired from his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11.

Acquisition of
land as cost of
a local author-
ity or Com-
pany.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or company.

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

(Part VIII—Miscellaneous—Sections 51—55.)

Provided that no such local authority or company shall be entitled to demand a reference under Section 18.

51. No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same. Exemption from stamp duty and fees.

52. No suit or other proceeding shall be commenced or prosecuted against any person or any thing done in pursuance of this Act, without giving to such person a month's previous notice in writing, of the intended proceeding and of the cause thereof, not after tender of sufficient amends. Notice in case of suits for anything done in pursuance of Act.

XIV of 1882 53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act. Code of Civil Procedure to apply to proceedings before Court.

54. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceedings under this Act. Appeals in proceedings before Court.

55. (1) The Local Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made. Power to make rules.

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall, when sanctioned by the Governor-General in Council, be published in the official Gazette, and shall thereupon have the force of law.

**THE AGRICULTURISTS' LOANS ACT,
XII OF 1884.**

THE AGRICULTURISTS' LOANS ACT, 1884.

CONTENTS.

SECTIONS—

1. Short title and commencement.
 2. Local extent.
 3. Repeal of the Northern India Takkavi Act, 1879,
and Sections 4 and 5 of the Bombay Jurisdiction Act, 1880.
 4. Power for Local Government to make rules.
 5. Recovery of loans.
 6. Liability of joint-borrowers as among themselves.
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ACT NO. XII OF 1884.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.

*(Received the assent of the Governor-General
on the 24th July 1884.)*

An Act to amend and provide for the extension
of the Northern India Takkavi Act, 1879.

[As modified up to the 31st August 1906.]

X of
1879.

WHEREAS it is expedient to amend the Northern
India Takkavi Act, 1879, and provide for its
extension to any part of British India; it is hereby
enacted as follows:—

1. (1) This Act may be called the Agricul- Short title.
turists' Loans Act, 1884; and

(2) It shall come into force on the first day of Commence-
August 1884. ment.

2. (1) This section and Section 3 extend to Local extent
the whole of British India.

(2) The rest of this Act extends in the first
instance only to the territories respectively admin-
istered by the Governor of Bombay in Council, the
Lieutenant-Governors of the North-Western Pro-
vinces and the Punjab, and the Chief Commis-
sioners of Oudh, the Central Provinces, Assam and
Ajmere.

(3) But any other Local Government may,
from time to time, by notification in the official
Gazette, extend the rest of this Act to the whole or
any part of the territories under its administration.

3. (1) On and from the day on which this Act Repeal of Ac
comes into force, the Northern India Takkavi Act, X of 1879
1879, and Sections 4 and 5 of the Bombay Revenue and Sections.
XV of Jurisdiction Act, 1880, shall, except as regards the and 5 of Ac
1880. recovery of advances made before this Act comes XV of 1880.
into force and of the interest thereon, be repealed.

(Section 4.)

(2) All rules made under those Acts shall be deemed to be made under this Act.

Power for
Local Gov-
ernment to
make rules.

4. (1) The Local Government may, from time to time, subject to the control of the Governor-General in Council, make rules as to loans to be made to owners and occupiers of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects.

XIX of
1883.

(2) All such rules shall be published in the local official Gazette.

The power of sanction.

Notification
No. 717, dated
the 30th July
1908.

1. Loans may be granted only by officers to whom an allotment of funds for the purpose has been made by competent authority and only within the limits of that allotment.

2. Subject to the provisions of Rule 1 loans may be made by Deputy Commissioners, Assistant and Extra-Assistant Commissioners and Tahsildars.

Provided that—

(1) No loans exceeding Rs. 500 in amount shall be granted without the previous sanction of the Commissioner.

(2) No loans exceeding Rs. 250 in amount may be granted by an Assistant or Extra-Assistant Commissioner.

(3) No loans exceeding Rs. 100 in amount may be granted by a Tahsildar.

3. Commissioners of Divisions shall, out of the allotment of funds for the purposes of granting loans under the Act in their Divisions, apportion a definite amount to each district. Deputy Commissioners will make allotments to such Assistant Commissioners, Extra-Assistant Commissioners and Tahsildars as they consider it desirable to employ in granting loans, reporting the names of the officers to whom allotments are made, and the amount allotted to each, to the Commissioner. They may also fix amounts, not exceeding those specified in Rules 2 (2) and (3), limiting the amount of individual loans granted by the officers to whom allotments are made.

NOTE.—Assistant Commissioners and Extra-Assistant Commissioners employed in this work should ordinarily be officers in revenue charge of a sub-division of the district.

(Section 4.)

The enquiry into applications and the method of granting loans.

4. With a view to facilitate the prompt distribution of loans under the Act, Deputy Commissioners and any other Revenue officers authorised by them may draw advances from the Treasury in lump sums on abstract bills and distribute loans on tour in the manner prescribed in the note appended to Article 131 of the Civil Account Code. This system is specially appropriate when petty advances are made for the purchase of seed and fodder.

5. Whenever non-official agency is available, it may be employed to aid in making enquiries and disbursing loans.

Security.

6. The security for the payment of loans will usually be the borrower's interest, whether as a proprietor or tenant, in land, but this interest need not be formally hypothecated.

7. When the amount of the loan does not exceed three-quarters of the borrower's interest, in the value of the land held by the borrower, no collateral security need be required.

8. When the borrower has no interest in land, or when his interest in land is less than four-thirds of the amount of the loan, he shall provide a surety and security shall be taken from him which may either be personal or may consist of a transferable interest in land. In the latter case the land must be mortgaged in the appended Form B, and the mortgage-deed must be registered and its execution attested as required by law.

9. When an application is received from the members of a village community or from a group of cultivators, their joint personal security may ordinarily be accepted as sufficient to ensure the repayment of a loan, provided that the amount advanced on such security shall not exceed—

(a) in the case of proprietors (including malik-mak-buzas) and ryots in ryotwari villages, five times the annual revenue, and

(b) in the case of tenants, three times the annual rent assessed on the land held by the applicants.

(Section 4.)

When loans are made under this rule, the order granting the loan should be in the appended Form C.

The rate of interest at which, and the conditions under which, loans may be granted.

10. Interest shall be charged on loans made under these rules at the rate of $6\frac{1}{4}$ per cent per annum: provided that if an instalment of principal or interest be not paid on the date fixed it shall be in the discretion of the Deputy Commissioner of the District to charge interest upon such instalment from the date of default at the rate of $12\frac{1}{2}$ per cent per annum. Interest on every loan shall run from the date on which the loan is made.

11. An applicant receiving a loan under these rules shall be required to sign the order granting the loan (Form A or Form C), a copy of which shall then be given to him.

12. Should there be any doubt as to the application of the loan in the manner specified in the order granting the loan, the Deputy Commissioner shall enquire into the matter, and if he finds that the loan has been misapplied, he may order its recovery with interest in a lump sum.

The repayment of loans.

13. The date of repayment of a loan, or, if the loan is made repayable in instalments, the date of repayment of the first instalment shall coincide with one or other of the dates fixed for the payment of rent.

14. The period fixed for the repayment of loans shall not, except for special reasons and with the sanction of the Commissioner, be longer than five years. Ordinarily loans made for the purchase of seed should be repaid from the crops produced from the seed; and loans made for the purchase of plough-cattle should ordinarily be repaid within three years at most.

Suspension.

15. Suspensions of payment shall be allowed without hesitation whenever, from causes beyond the borrower's control, his crops fail to such an extent as to render the payment of the instalment unduly burdensome to him; and whenever suspensions of revenue are granted on a large scale over a wide area they will carry with them automatically suspensions of the *takavi* instalments which fall due

(Section 4.)

in the same year. The effect of the suspension of an instalment will be to postpone for one instalment-period the payment of all the remaining instalments due on the loan; and no interest will be charged on the loan for the period during which repayment is suspended.

16. Suspensions may be granted by the Deputy Commissioner or, under his orders, by other officers who are empowered to grant loans under Rule 1, provided that the amount of the loan on account of which the instalment to be suspended is due does not exceed the amount up to which the officer granting the suspension is empowered to sanction loans.

Remission.

17. Commissioners of Divisions may sanction the remission of amounts not exceeding Rs. 250 in the case of any one loan: provided that when a general remission of loans is recommended on account of the particular circumstances of a tract or the character of the season, sanction of the Chief Commissioner shall be obtained.

Form A.*Order granting a loan under the Agriculturists' Loans Act, 1884.*

1. The sum of Rs. _____ is hereby granted to *A. B.*, son of _____, resident of _____, Tahsil _____, as a loan under the Agriculturists' Loans Act, 1884, for the purpose of *(here describe the purpose for which the loan is granted)*, subject to the following conditions.

2. The conditions referred to are as follows:—

(a) that the amount of this loan shall be paid to the aforesaid *A. B.* on the production of this order at the Tahsil of _____:

(b) that the amount of this loan, with interest chargeable thereon, and costs (if any) incurred in the making thereof, shall be repayable to the person named, and at the place, on the dates, and by the amounts, specified below:—

Name.	Place.	Date.	Principal.	Interest.	Cost (if any).	Total.
(c) that this loan shall be applied solely to the purpose specified above, and that, if it shall be proved to the satisfaction of the						

(Section 4.)

Deputy Commissioner that any part of the loan has been misapplied, the whole amount of the loan shall, with such interest as may have become due thereon, as well as costs (if any), be deemed to become due at once:

(d) that if any instalment is not paid on the due date, interest at $12\frac{1}{2}$ per cent per annum may, at the discretion of the Deputy Commissioner, be charged on such instalment from the date of default.

Signature of the Deputy Commissioner.

I have received the above sum, and understood and agreed to the aforesaid terms and conditions.

Signature of the person to whom the loan is granted.

NOTE.—No receipt stamp is required in the case of loans under the Agriculturists' Loans Act.

Form B.

Form of mortgage deed to be taken as security for loans under the Agriculturists' Loans Act, 1884.

Whereas _____ has on _____ received from the Deputy Commissioner of _____ acting on behalf of the Secretary of State for India in Council, an order under the Agriculturists' Loans Act, 1884, in virtue of which he is entitled to receive the aggregate sum of Rs. _____ as a loan from the Secretary of State for India in Council for the purpose of _____

and whereas collateral security for the punctual repayment of the said loan according to the terms of the order, is demanded from the said _____

* I the said _____

* To be used when the borrower alone gives collateral security.

† To be used when the borrower and his sureties all give collateral security.

‡ To be used when the collateral security is given by sureties only.

or † I the said _____ and we _____ or ‡ we _____

mortgage to the Secretary of State for India in Council the immoveable property mentioned in the schedule below together with all crops now actually growing or which may hereafter, while any money is owing on this security, be

(Section 4.)

grown upon the said immoveable property as a collateral security, and agree that if I fail (or the said fails) duly to apply the said loan or to repay any instalment of the said loan or interest chargeable thereon or costs (if any) incurred in the making thereof, on the date on which it may become due, it shall be lawful for the said Deputy Commissioner of , acting on behalf of the mortgagee, the Secretary of State for India in Council, without any further consent on my part (or on the part of the said) or his legal representative to sell the immoveable property and the crops hereinbefore expressed to be mortgaged or any part thereof either together or in parcels and either by public auction or private contract without the intervention of the Court which the said Deputy Commissioner shall deem proper, and apply the proceeds to the discharge of the liabilities accruing under this mortgage deed.

It shall further be lawful for the said Deputy Commissioner to recover all moneys accruing due under this instrument in the same manner as an arrear of land revenue under the Central Provinces Land Revenue Act.

NOTE.—The copy sent to the Registering Officer should be certified to be "True Copy," and the property mortgaged should be sufficiently described.

Form C.

Order granting loans on joint responsibility under the Agriculturists' Loans Act, 1884.

1. The sum of Rs. is hereby granted as a loan under the Agriculturists' Loans Act, 1884, for the purpose of (*here describe the purposes of the loans*) to the persons and in the amounts entered below :—

Name of recipients.	Father's name.	Village.	Tahsil.	Amount of advance to each recipient.

(Section 5.)

2. The grant is subject to the following conditions:—

- (a) that the amount of this loan shall be paid to the above-named persons on the production of this order at the tahsil of :
- (b) that all the above named persons shall be jointly and severally responsible for the total amount of the loan granted to them :
- (c) that the amount of this loan with interest chargeable thereon and costs (if any) incurred in the making thereof, shall be repayable to the persons named, and at the place, on the dates, and by the amounts, specified below :—

Name. Place. Date. Principal. Interest. Costs (if any). Total.

- (d) that this loan shall be applied solely to the purpose specified above, and that if it shall be proved to the satisfaction of the Deputy Commissioner that any part of the loan has been misapplied, the whole amount of loan shall, with such interest as may have become due thereon, as well as costs (if any), be deemed to become due at once :
- (e) that if any instalment is not paid on the due date, interest at $12\frac{1}{2}$ per cent per annum may, at the discretion of the Deputy Commissioner, be charged on such instalment from the date of default.

Signature of Deputy Commissioner.

We have received the above sum, and understood and agreed to the aforesaid terms and conditions.

1
2
3
4
5

Signature of the persons to whom the loan is granted.

Recovery of loans.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

NOTE.—No receipt stamp is required in the case of loans under the Agriculturists Loans Act.

(Section 6.)

6. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Liability of
joint borrow-
ers as among
themselves.

THE LAND IMPROVEMENT LOANS
ACT, XIX OF 1883.

THE LAND IMPROVEMENT LOANS ACT, 1883.

CONTENTS.

SECTIONS—

1. Short title, local extent and commencement.
2. Repeals of the Land Improvement Loans Act, 1871 and 1876.
3. "Collector" defined.
4. Purposes for which loans may be granted under this Act.
5. Mode of dealing with applications for loans.
6. Period for repayment of loans.
7. Recovery of loans.
8. Order granting loan conclusive on certain points.
9. Liability of joint borrowers as among themselves.
10. Power to make rules.
11. Exemption of improvements from assessment to land revenue.
12. Amendment to the Indian Registration Act, 1877.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.

(Received the assent of the Governor-General on the
12th October 1883.)

An Act to consolidate and amend the law relating
to loans of money by the Government for Agricultural
improvements [a]

[As modified up to the 31st August 1906.]

WHEREAS it is expedient to consolidate and
amend the law relating to loans of money by
the Government for agricultural improvements; it
is hereby enacted as follows:—

1. (1) This Act may be called the Land Improvement Loans Act, 1883. Short title.

(2) It extends to the whole of British India, but shall not come into force in any part of British India until such date as the Local Government may, by notification in the local official Gazette, appoint in this behalf. Local extent.
Commence-
ment.

2. (1) The Land Improvement Act, 1871, and Act XXI of 1876 (An Act to amend the Land Improvement Act, 1871, shall except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect of such advances, be repealed. Local extent.
Commence-
ment.

Acts XXVI
of 1871, and
XXI of 1876
repealed.

XXVI of
1871.

(2) When in any Act, Regulation or Notification passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

[a] Instruments executed by persons taking loans, or by their sureties, as security for the repayment of such loans are exempted from stamp duty—see Act I of 1879, Schedule II, Article 12, and Section 2 (2) of this Act.

[b] Vide Notification No. 602, dated the 9th February 1899.

"Collector" defined.

3. In this Act, "Collector" means the Collector of land revenue of a district, or the Deputy Commissioner, or any officer empowered by the Local Government by name or by virtue of his office to discharge the functions of a Collector under this Act.

Purposes for which loans may be granted under this Act.

4. (1) Subject to such rules as may be made under section 10, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Local Government, for the purpose of making any improvement, to any person having a right to make that improvement, or with the consent of that person, to any other person.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely :—

- (a) the construction of wells, tanks and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture ;
- (b) the preparation of land for irrigation ;
- (c) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste land which is culturable ;
- (d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes ;
- (e) the renewal or re-construction of any of the foregoing works, or alterations therein or additions thereto ; and
- (f) such other works as the Local Government may, from time to time, by notification in the local official Gazette, declare to be improvements for the purposes of this Act.

5. (1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Local Government may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections.

Mode of dealing with applications for loans.

(2). The officer shall consider every objections submitted under sub-section (1), and make an order in writing either admitting or overruling it.

Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

6. (1) Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise) within such period from the date of the actual advance of the loan, or when the loan is advanced in instalments, from the date of the actual advance of the last instalment as may, from time to time, be fixed by the rules made under this Act.

Period for repayment of loans.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Local Government in making the rule fixing the period, shall, in considering whether the period should extend to thirty-five years, or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

7. (1) Subject to such rules as may be made under section 10, all loans granted under this Act, all interest (if any chargeable thereon) and costs

Recovery of loans.

(if any) incurred in making the same shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely : —

- (a) from the borrower—as if they were arrears of land revenue due by him ;
- (b) from his surety (if any)—as if they were arrears of land revenue due by him ;
- (c) out of the land for the benefit of which the loan has been granted—as if they were arrears of land revenue due in respect of that land ;
- (d) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land revenue by the sale of immovable property other than the land on which that revenue is due :

Provided that no proceeding in respect of any land under clause (c) shall effect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section 4 with the consent of another person, the interest of that person, and of mortgagees of, or person having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under sub-section (1) by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be) recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-section (1).

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

Order granting loan conclusive on certain points.

- (a) that the work described is an improvement within the meaning of this Act;
- (b) that the person mentioned had at the date of the order a right to make such an improvement; and
- (c) that the improvement is one benefitting the land specified.

9. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Liability of joint borrowers as among themselves.

10. The Local Government, subject to the control of the Governor-General in Council, may, from time to time, by notification in the local official Gazette, make rules consistent with this Act to provide for the following matters, namely:—

Power to make rules.

- (a) the manner of making applications for loans;

(Section 10.)

- (b) the officers by whom loans may be granted ;
- (c) the manner of conducting inquiries relative to applications for loans and the powers to be exercised by officers conducting those inquiries ;
- (d) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted; and the manner and time of granting loans ;
- (e) the inspection of works for which loans have been granted ;
- (f) the instalments by which, and the mode in which loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid ;
- (g) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same ; and
- (h) all other matters pertaining to the working of the Act.

RULES UNDER SECTION 10 OF THE LAND IMPROVEMENT LOANS ACT, XIX of 1883.

(a).—*The manner of making applications for loans.*

Notification
No. 716,
dated the
30th July
1908.

1. Applications for loans shall be in the appended Form A and they may be made to any Revenue Officer. Printed copies of this form shall be supplied free of cost at all tahsil offices, and shall be distributed on tour by Revenue Inspectors, whenever they are required. In the case of oral applications the form shall be filled in for the applicant by a Revenue official.

NOTE.—Such applications are exempted from Court-fees duty by Government of India Notification No. 4650-A (12), dated the 10th September 1889.

(Section 10.)

(b).—*The officers by whom loans may be granted.*

2. Loans may be granted only by officers to whom an allotment of funds for the purpose has been made by competent authority, and only within the limits of that allotment.

3. Subject to the provisions of Rule 2 loans may be made by Deputy Commissioners, Assistant and Extra-Assistant Commissioners and Tahsildars.

Provided that—

- (1) No loan exceeding Rs. 1,000 in amount may be granted except with the previous sanction of the Commissioner.
- (2) No loan exceeding Rs. 5,000 in amount may be granted without the previous sanction of the Financial Commissioner.
- (3) No loan exceeding Rs. 500 in amount may be granted by an Assistant and Extra-Assistant Commissioner.
- (4) No loan exceeding Rs. 250 in amount may be granted by a Tahsildar.

4. Commissioners of Divisions shall, out of the allotment of funds for the purposes of granting loans under the Act in their Divisions, apportion a definite amount to each district. Deputy Commissioners will make allotments to such Assistant Commissioners, Extra-Assistant Commissioners and Tahsildars as they consider it desirable to employ in granting loans, reporting the names of the officers to whom allotments are made, and the amount allotted to each, to the Commissioner. They may also fix amounts, not exceeding those specified in Rule 3 (3) and 3 (4), limiting the amount of individual loans granted by the officers to whom allotments are made.

NOTE.—Assistant Commissioners and Extra-Assistant Commissioners employed in the work should ordinarily be officers in revenue charge of a sub-division of the district.

(c).—*The manner of conducting enquiries relative to applications for loans; and the powers to be exercised by officers conducting those enquiries.*

5. A Revenue officer to whom an application is presented may, if so empowered, either proceed to dispose of

(Section 10.)

it himself or may send it to any officer subordinate to him who is empowered to dispose of it. If the officer receiving the application is not empowered to dispose of it himself, he shall send it to the lowest Revenue officer superior to himself who is so empowered.

6. A Revenue Officer disposing of an application under these rules shall have its entries verified, as far as possible, by comparison with the records of the village in which the land to which the application refers is situated, and may make such further investigation as he may deem necessary either by summoning and examining persons or by local enquiry. In the case of applications for loans exceeding Rs. 500 such local enquiry shall be made by an officer not below the rank of Naib-Tahsildar; in other cases the enquiry may be entrusted to a Revenue Inspector.

7. The officer to whom an application is made shall ordinarily issue a notice under Section 5 of the Act, at the time when he causes the verification of the applicant's statements to be made under the preceding rule. Such notice shall be in Form B appended. It shall be published by being affixed to a prominent place in the village in which the land, to the improvement of which the loan is to be applied, is situated.

Notification
No. 224,
dated the
17th May
1909.

8. A Revenue officer disposing of an application under these rules shall have authority to receive evidence, and shall have the same powers in summoning persons or in causing the production of documents as a Civil Court has under the Civil Procedure Code.

(d—first clause).—*The nature of the security to be taken for the due application and repayment of the money.*

9. Before sanctioning a loan the Revenue Officer shall invariably satisfy himself that it is sufficient to cover so much of the total outlay required to construct the work as the borrower is unable to provide from his own resources.

10. When the amount of the loan does not exceed three-fourths of the borrower's interest in the value of the land after the improvement has been carried out, the borrower's interest in the land to be improved shall be considered sufficient security of itself to cover the loan and no collateral security need be required.

(Section 10.)

11. Where the interest of the borrower in the land to be improved is not sufficient of itself to ensure the repayment of the loan, the officer granting the loan shall require further security which may consist :—

- (a) of other land belonging to the applicant, or
- (b) of land belonging to other persons who are willing to become his sureties, or
- (c) of personal security.

12. If the security taken consists of other land belonging to the applicant, or of land belonging to other persons, such land shall be hypothecated by a bond in Form D, which must be registered and the execution of which must be attested as required by law. If the security is personal, the officer granting the loan shall, after such enquiry as he may deem necessary, record his reasons for considering that such security is sufficient to guarantee the repayment of the loan.

13. Persons who have no transferable interest in land may be granted loans under the preceding rule, provided that they have the right to make improvements within the meaning of Section 4 of the Act, or have obtained the consent of any person having such right.

14. When an application is received from the members of a village community, or from a group of cultivators, their joint personal security may ordinarily be accepted as sufficient to ensure the repayment of a loan: provided that the amount advanced on such security shall not exceed :—

- (a) in the case of proprietors (including malik-makbuzas) and ryots in ryotwari villages, five times the annual revenue, and
- (b) in the case of tenants, three times the annual rent assessed on the land held by the applicants.

For loans made under this rule a bond in Form E shall be taken from the borrowers.

NOTE.—Such security bonds are exempt from stamp duty by Article 57, Schedule I, of the Indian Stamp Act, 1899.

(Section 10.)

(d second clause).—*The rate of interest at which, and the conditions under which, loans may be granted; and the manner and time for granting loans.*

15. Interest shall be charged on loans made under these rules at the rate of $6\frac{1}{4}$ per cent per annum: provided that if an instalment of principal or interest be not paid on the date fixed it shall be in the discretion of the Deputy Commissioner of the district to charge interest upon such instalment at the rate of $12\frac{1}{2}$ per cent per annum. Interest on every loan shall run from the date on which the loan is made.

16. An applicant receiving a loan under these rules shall be required to sign the order granting the loan (Form C), a copy of which shall then be given him. The Tahsildar shall on presentation of the copy at the office of the tahsil in which the land is situated pay the amount of each instalment at the date or dates entered therein.

17. In the case of loans of Rs. 1,000 or more the money shall not, unless the Commissioner otherwise directs, be advanced in instalments exceeding Rs. 500, and no instalment after the first shall be advanced until it has been ascertained by local inspection that at least half the instalment last paid, as well as all the previous instalments, has been expended on the improvement for which the loan was sanctioned.

18. With a view to facilitate the prompt distribution of loans under the Act, Deputy Commissioners and any other Revenue officers authorized by them may draw advances from the treasury in lump sums on abstract bills and distribute loans on tour in the manner prescribed in the note appended to Article 131 of the Civil Account Code.

(e).—*The inspection of works for which loans have been granted.*

19. Should there be any doubt as to the application of the loan in the manner specified in the order granting the loan, the Deputy Commissioner shall enquire into the matter, and if he finds that the loan has been misapplied, he may order its recovery with interest in a lump sum.

(Section 10).

(f).—*The instalments by which, and the mode in which, loans, the interest to be charged upon them, and the cost incurred in the making thereof, shall be paid.*

20. In fixing the term for the repayment of a loan regard shall be had to the probable duration of the improvement: but ordinarily the term shall not exceed 20 years from the date on which the first instalment becomes due: the period may, under the Financial Commissioner's sanction, in very special cases, be extended up to 35 years.

21. Loans shall ordinarily be made repayable by equal yearly or half-yearly instalments of an even number of rupees. Six tables are appended showing the number of years which would be required approximately to liquidate a loan of Rs. 100 by various instalments according as the first instalment is made payable at the end of one, two, or two and a half years, respectively. These tables will serve as a useful guide in determining the instalments to be fixed for the repayment of loans within a given period, but the Wasil-baki-navis must invariably calculate the interest actually due on the date of payment and apportion the amount paid between principal and interest.

22. The date of repayment of the first instalment shall not exceed two and a half years from the date of the actual advance of the loan, or when the loan is advanced in instalments, from the date of the actual advance of the last instalment, and it shall be fixed with reference to the time when the improvement will begin to yield a return: provided that in the case of any improvement, the execution of which has been delayed from causes for which the borrower is not responsible the date of the first instalment may be postponed, under the Financial Commissioner's sanction, until the work is completed and the borrower has derived from it at least one season's advantage.

23. The first instalment shall ordinarily be fixed for payment on one or other of the dates fixed for the payment of rent.

24. Suspensions of payment shall be allowed without hesitation whenever, from causes beyond the borrower's control, his crops fail to such an extent as to render the payment of the instalment unduly burdensome to him; and whenever suspensions of revenue are granted on a large scale over a wide area they will carry with them automatically suspensions of the *takazi* instalments which fall due in the same year. The effect of the suspension of an instalment will be to postpone for one instalment-period the payment

(Section 10.)

of all the remaining instalments due on the loan; and no interest will be charged on the loan for the period during which repayment is suspended.

25. Suspensions may be granted by the Deputy Commissioner or, under his orders, by other officers who are empowered to grant loans under Rule 1, provided that the amount of the loan on account of which the instalment to be suspended is due does not exceed the amount up to which the officer granting the suspension is empowered to sanction loans.

26. Commissioners of Divisions may sanction the remission of amounts not exceeding Rs. 250 in the case of any one loan, provided that where a general remission of loans is recommended on account of the particular circumstances of a tract or the character of the season, the sanction of the Chief Commissioner shall be obtained.

Tables showing the number of years in which a loan of Rs. 100 will be liquidated with interest at $6\frac{1}{4}$ per cent by the annual payment of an even number of rupees.

I.		II.		III.	
When the first payment is made 1 year after the grant of the loan.		When the first payment is made 2 years after the grant of the loan.		When the first payment is made 2½ years after the grant of the loan.	
Amount of annual payment.	Approximate number of years required to liquidate the loan.	Amount of annual payment.	Approximate number of years required to liquidate the loan.	Amount of annual payment.	Approximate number of years required to liquidate the loan.
Rs.		Rs.		Rs.	
7	33	8	30	8	32
8	25	9	22	9	24
9	20	10	18	10	19
10	16	11	15	11	16
11	14	12	13	12	14
12	12	13	12	13	12
13	11	14	11	14	11
14	10	15	10	15	10
15	9	16	9	16	9
16	8	17	8	18	8
18	7	20	7	20	7
20	6	22	6	22	6
24	5	25	5	26	5
30	4	30	4	32	4
38	3	40	3	42	3
55	2	57	2	59	2

(Section 10.)

Tables showing the number of years in which a loan of Rs. 100 will be liquidated at $6\frac{1}{4}$ per cent by the half yearly payment of an even number of rupees.

IV.

V.

VI.

When the first payment is made 1 year after the grant of the loan.		When the first payment is made 2 years after the grant of the loan.		When the first payment is made 2½ years after the grant of the loan.	
Amount of half-yearly payment.	Approximate number of years required to liquidate the loan.	Amount of half-yearly payment.	Approximate number of years required to liquidate the loan.	Amount of half-yearly payment.	Approximate number of years required to liquidate the loan.
Rs.		Rs.		Rs.	
4	25	4	29	4	32
5	16	5	18	5	19
6	12	6	13	6	13
7	10	7	10	7	11
8	8	8	9	8	9
9	7	9	8	9	8
10	6	10	7	10	7
11	5	11	6	11	6
15	4	12	5	13	5
18	3	15	4	16	4
27	2	20	3	20	3
		28	2	30	2

(Section 10.)

Form A.

Application for loan under Act XIX of 1883.

Name caste and residence of applicant.	Liabilities of applicant.		Description of improvement to which loan is to be applied.	Land to which improvement is to be made.			* Rights of applicant in the fields entered in column 6.	Amount of loan required.	Date on which improvement will commence to yield a return.	Character and amount of security offered.			Remarks.
	Encumbrances on land.	Other liabilities.		Village in which situated.	Number of each field.	Area, sent rental value.				By applicant himself.	By others on behalf of applicant.		
1	2	3	4	5	6	7	8	9	10	11	12	13	14

* When the loan is applied for by a person who has not the right to make the improvement, the persons having that right should give in writing the consent required by Section 4 of the Act, and the record of his consent should be signed by him and attested by at least two witnesses.

(Applicant's signature.)

(Section 10.)

Form B.

Notice.

Notice is hereby given that
 son of _____ caste
 resident of _____, has made application for a
 loan, under Act XIX of 1883, amount Rs. _____, with
 the purpose of making the improvement noted in the
 following schedule to the land described therein. As
 security for the repayment of such loan, and for the fulfil-
 ment of the conditions on which it is granted, he has offered
 the security scheduled below. Should any person desire
 to raise objection to the making of the improvement or the
 giving of such security, he should do so in the Court of the
 Deputy Commissioner (or other officer specially empowered)
 within fifteen days from this date :—

Schedule.

Description of improvement.	Land to which improvement is to be effected.			Appli- cant's alleged interests in such land.	Security offered by applicant.	
	Name of village.	Number of each field.	Area.		By applicant himself.	By others on behalf of appli- cant.

Dated

19 .

Deputy Commissioner.

(Section 10.)

Form C.

Order granting a loan under the Land Improvement Loans Act, 1883.

1. The sum of Rs. _____ is hereby granted to A. B., son of _____ [*with the consent of C. D., the record whereof is hereto annexed] as a loan under the Land Improvement Loans Act, 1883, for the following purposes, namely:—

Nature of the improvement for which the loan is granted, Section 4, Sub-section (2), of the Act.	Description of the land to be benefited by the improvement.	
	No. of field.	Area.

2. The conditions of the loan are as follows:—

- (a) That the amount of this loan shall be paid to the aforesaid A. B. on the production of this order at the tahsil of _____ † in the instalments and on the date specified below:—

Dates.

Instalments.

- (b) That the amount of this loan, with interest chargeable thereon, and costs (if any) incurred in the making thereof, shall be repayable to the person named and at the place, on the dates and by the amount specified below:—

Name. Place. Date. Principal. Interest. Cost (if any). Total.

- (c) That this loan shall be applied solely to the purpose specified above, and that if it shall be proved to the satisfaction of the Deputy Commissioner that any part of the loan has been misapplied, the whole amount of the loan shall, with such interest as may have become due thereon, as well as costs (if any), be deemed to become due at once.

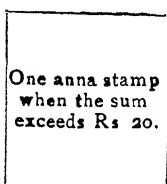
* To be inserted when the person to whom the loan is made has no right to make the improvement without the consent of another person.
 † To be inserted only when the loan is payable in instalments.

(Section 10.)

- (d) That unless (*here enter any conditions as to the period or periods appointed for completing the work*) has been completed by (date) the loan shall be held to have been misapplied; This clause to be used when needed.
- (e) That if any instalment is not paid on the due date, interest at $12\frac{1}{4}$ per cent per annum may, at the discretion of the Deputy Commissioner, be charged on such instalment from the date of default.

Signature of the Deputy Commissioner.

I have understood and agreed to the aforesaid terms and conditions.



Signature of the person to whom the loan is granted.

Form D.

Security bond to be used when immoveable property is given as collateral security.

Whereas _____ has received from the Deputy Commissioner of _____ an order under the Land Improvement Loans Act, 1883, in virtue of which he is entitled to receive the aggregate sum of Rs. _____ as a loan from the Government for the purpose of (*here describe the work to be carried out*) for the benefit of (*here describe the land to be benefited*) and whereas collateral security for the punctual repayment of the loan according to the terms of the order is demanded from the said _____ * I the said _____ † or I the said _____ and ‡ we _____ or we mortgage to the Government the immoveable property mentioned in the schedule below as a collateral security, and agree that if I fail (or the said _____ fails) duly to apply the said loan or to repay any instalment of the said loan or interest chargeable thereon or costs (if any) incurred in the making thereof, on the date on which it may become due, it shall be lawful for the Deputy Commissioner to recover from the said property such sum as may be necessary to make good the amount which in consequence of my (or the said _____) default may be due from me (or him).

* To be used when the borrower alone gives collateral security.

† To be used when the borrower and his sureties all give collateral security.

‡ To be used when the collateral security is given by sureties only.

(Section 10.)

Form E.

Security bond to be used when sureties give personal security only.

Whereas has on received from the Deputy Commissioner of an order under the Land Improvement Loans Act, 1883, in virtue of which he is entitled to receive the aggregate sum of Rs. as a loan from the Government for the purpose of (*here describe the work to be carried out*) for the benefit of (*here describe the land to be benefited*) we hereby agree that if the said shall fail duly to apply the said loan or to repay any instalment of the said loan or interest chargeable thereon or costs (if any) incurred in the making thereof, on the date on which it may become due, we will be jointly and severally liable to the Government for such sum not exceeding as may be necessary to make good the amount which in consequence of his default he may have become liable to pay.

(Section 11.)

II. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land revenue on the land :—

Exemption
of improve-
ments from
assessment of
land revenue.

Provided as follows :—

- (1) Where the improvement consists of the reclamation of waste-land, or of the irrigation of land assessed at unirrigated rates the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government.

The Chief Commissioner has made the following rules for the exemption of improvements from assessment to land revenue :—

Notification
No. 612,
dated the
29th January
1891.

1. When the improvement consists in the reclamation of waste-land for agricultural purposes the increase in value derived from the improvement shall not be taken into account in revising the assessment of land revenue on the land reclaimed, so as to increase the amount of land revenue payable on account of such land, until the next general settlement of the district or tract in which the land is situated.
2. When the improvement consists in the construction of any of the following works which are hereby declared to be improvements within the meaning of Section 4, clause (2), of the Act :—
 - (a) Tanks and ponds,
 - (b) Canals and water-channels,
 - (c) Durable wells,
 - (d) Durable lifts on the banks of streams,
 - (e) Substantial embankments for *rabi* crop, designed to convert land assessable at unirrigated rates, into land assessable at irrigated

(Section 12.)

rates, the increase in value of the land so improved shall not be taken into account in revising the assessment of land revenue, so as to increase the amount of land revenue payable on account of such land, until the expiration of the full term of the first general settlement that may be made of the tract in which the land is situated after the year of the making of any such improvement.

- (2) Nothing in this section shall entitle any person to call in question any assessment of land revenue otherwise than as it might have been called in question if this Act had not been passed.

Act III of
1877 amend-
ed.

12. (1) In the Indian Registration Act, 1877, III of section 17, clause (1), for the word "certificates" 1877. the words "orders granting loans" shall be substituted.

(2) [*Repealed by Act XII of 1891, First Schedule.*]

(3) In the same Act, Section 89, first clause,—

(a) for the words "a certificate" the words "a loan," and

(b) for the words "such certificate" the words "his order"

shall be substituted.